

ITECHLAW®
INTERNATIONAL TECHNOLOGY LAW ASSOCIATION

STARTUP LEGAL PLAYBOOK

A Quick Reference Guide to International Market Entry for Startups (and Their Lawyers)

Fourth Edition, 2026

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STARTUP LEGAL PLAYBOOK

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FOREWORD

Welcome all to the fourth edition of the ITechLaw Startup Legal Playbook: *A Quick Reference Guide to International Market Entry for Startups (and Their Lawyers)*.

The purpose of this Playbook is to provide startup founders and startup lawyers alike with a quick reference guide to key issues they may experience in foreign jurisdictions. Let's face it, the modern startup is not concerned with owning the local geography, but instead wants to step out onto the world stage as early as possible. Often times, this means that the need for foreign legal advice comes well before the resources which their institutional, established competitors can bring to bear.

Enter the *Playbook*. This is not meant as a definitive guide to everything you'll need to know about legal systems and local market realities in any given jurisdiction, but it is intended to help triage key issues. Whether you're using this guide as a lawyer advising a startup client, or as a startup company yourself, our hope is that the *Playbook* will help you to better assess potential risks and to ask the right questions.

And if you have need of a local legal expert, now you'll have a list of lawyers from around the world that deal with startups just like yours, that are ready and willing to help.

A bit about format. As you'll see, the *Playbook* is primarily broken into chapters by country. Each country's entry is organized in the same manner, as answers to a series of nine questions or prompts:

- **Legal Foundations** - *Please describe the general legal structure of your country. Is it common law or civil code? What are the important jurisdictional layers (i.e. Federal, State, Provincial, etc.)?*
- **Corporate Structures** - *Please describe the most relevant structures from a practical point of view a start-up might consider when looking to start its business in your country.*
- **Entering the Country** - *Are there any foreign investment rules/restrictions to be aware of?*
- **Intellectual Property** - *Please identify on high level where IP may be registered, and what protections that affords. Do you have specific trade secret legislation? Are you on the Madrid System?*
- **Data Protection/Privacy** - *Please describe any regime for data protection and/or protection of personal information in your country. For EU: Are there significant national particularities due to the usage of the 99 opening clauses of the GDPR?*
- **Artificial Intelligence** - *Is there a specific regime for AI regulation in your country? Are there any other legal particularities to consider?*
- **Employees/Contractors** - *What does a foreign entity briefly needs to know about engaging employees or contractors in your country? Is there a work for hire regime? Are there restrictions on terminations of employees?*

FOREWORD CONT'D

- **Consumer Protection** - *What does a foreign entity need to know about consumer protection in your country?*

- **Terms of Service** - *Is there anything that can't be or must be included in online terms of service in order to be enforceable in your country?*

- **Tax/Funding** - *Which national tax regulations are relevant for investors? Which trends, contact points, and links to further information are there in relation to funding/subsidies in your country?*

- **What else?** - *Is there anything else specific to your country not addressed above that a foreign entity ought to know before entry?*

The basis of these eleven questions should provide a reasonable primer on key inter-jurisdictional issues you or your startup or startup client will want to consider as you contemplate expansion into new territories.

This publication has been a years-long project of the Startup Committee of the International Technology Law Association (ITechLaw). First discussed in 2020 during the height of the global pandemic, our committee spent time considering and developing these foundational questions and then enlisted colleagues from around the globe to provide responses forming their respective chapters. We have been amazed and humbled by the response we have received. The first edition of the Playbook included detailed chapters for thirty-nine countries, with the second edition expanding to sixty-three, and the third edition topping sixty-eight countries!

What's new? For this fourth edition of the Playbook, we asked contributors to update existing entries from the third edition, and have onboarded new countries to bring our current count to seventy-two jurisdictions!

What's next? In future editions, we will continue to expand the Playbook by adding more countries, provide updates as various jurisdictions inevitably change their laws, and consider adding to the list of questions on specific industry verticals and regulatory regimes. If you or your firm would like to contribute for a country not already listed, or you have other ideas on future expansions, please let us know!

In the meantime, we hope you find the following chapters illuminating and useful in your push for global domination!

Sincerely,
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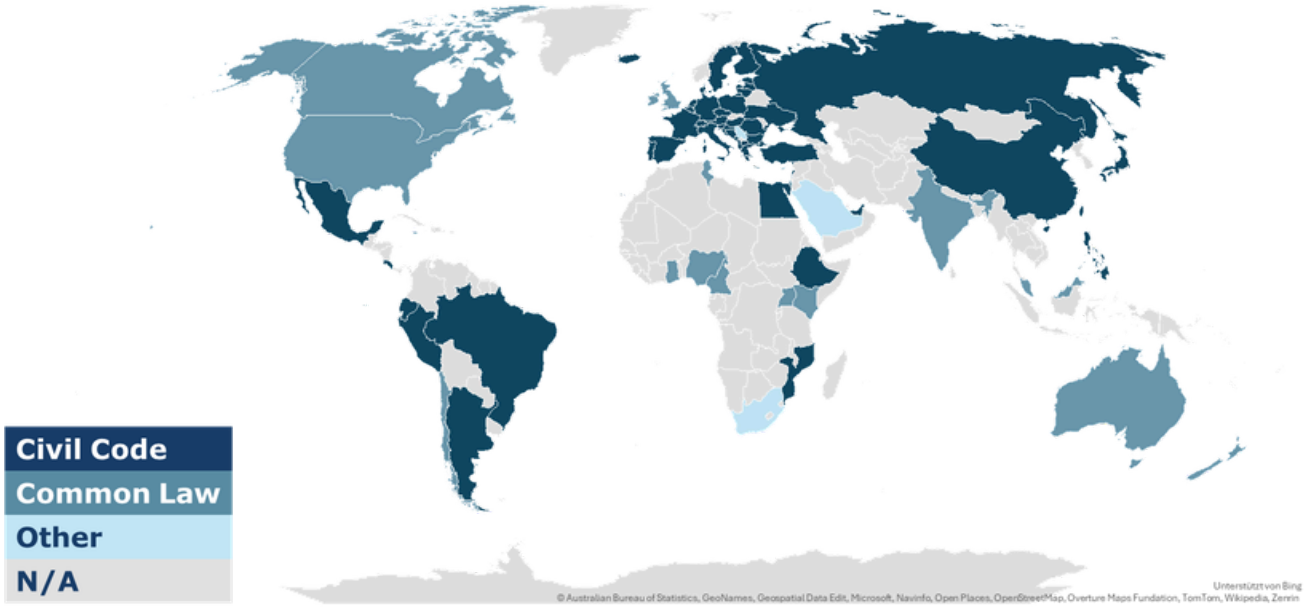
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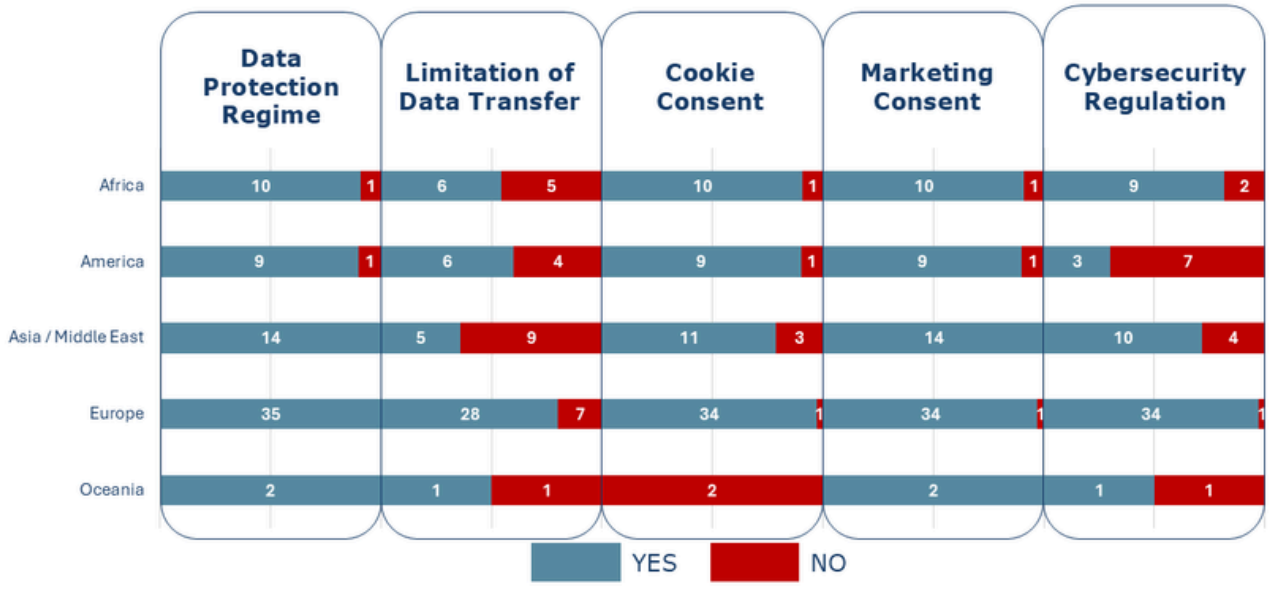
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GLOBAL OVERVIEW

LEGAL FOUNDATIONS

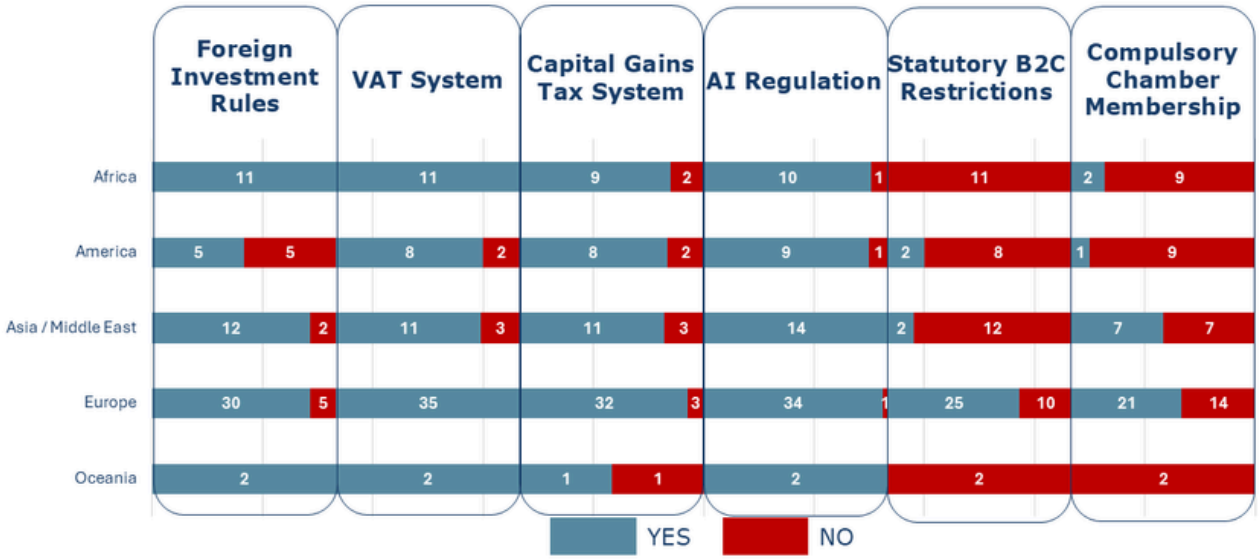


DATA PROTECTION & CYBER REGULATION



OVERVIEW

VARIOUS



GENERAL DATA PROTECTION REGULATION (GDPR)

The General Data Protection Regulation (GDPR) is the central regulation within the European Union that defines the conditions under which the processing of personal data is legally permissible. It applies directly in all Member States.

Objective of the GDPR: The GDPR is intended to protect data subjects from the - unnecessary - processing of personal data.

Personal data within the meaning of Art. 4 No. 1 GDPR is all information that relates to an identified of identifiable natural person, i.e. a person who can be directly or indi-rectly identified (e.g. by reference to a name, identification number, location data etc.). Special categories of personal data (e.g. ethnic origin, political opinions, religious beliefs or health data) enjoy a particularly high level of protection in accordance with Art. 9 Para. 1 GDPR.

Processing of personal data: The processing of personal data is to be understood broadly and means any operation or set of operations which is performed on personal data or sets of personal data, whether or not by automated means, such as the collection, recording, organization, use, transmission, restriction, erasure or destruction of personal data.

Scope of application: The GDPR applies to the processing of personal data carried out by a controller or a processor in the context of its establishment in the European Union (EU). This applies regardless of whether the actual data processing takes place within or outside the EU. The GDPR also applies to organizations located outside the EU if they process the personal data of individuals in the (e.g., offering services or monitoring behavior). The GDPR also applies to the processing of personal data where EU law applies under international public law. This broad territorial scope ensures that the GDPR protects the personal data of individuals in the EU, regardless of where the data is processed or where the organization is based.

Principles: The GDPR is built on seven fundamental principles that organizations must follow when processing personal data. These principles ensure transparency, fairness, and security in the handling of personal information:

(1) Lawfulness, Fairness, and Transparency
Personal data must be processed lawfully, fairly, and in a transparent manner. Da-ta subjects should always be informed about how their data is being used.

(2) Purpose Limitation
Personal data must only be collected for specific, explicit, and legitimate purpos-es and not further be processed in a manner incompatible with those purposes.

(3) Data Minimization
Only personal data that is necessary for the stated purpose should be collected and processed.

(4) Accuracy
Personal data must be accurate and kept up to date. Inaccurate data must be rectified or deleted without delay.

(5) Storage Limitation
Personal data should only be stored for as long as necessary for the intended purpose.

(6) Integrity and Confidentiality
Personal Data must be processed securely, including protection against unauthor-ized or unlawful processing, loss, destruction, or damage.

(7) Accountability
Organizations must demonstrate compliance with GDPR by implementing poli-cies, procedures, and controls.

GENERAL DATA PROTECTION REGULATION (GDPR), CONT'D

Key Requirements of GDPR: To achieve these principles, GDPR sets out several key requirements for organizations processing personal data:

(1) Lawful Basis for Processing
Organizations must have a valid legal basis to process personal data. The six lawful bases as set forth in Art. 6 GDPR include:

- **Consent:** Consent must be freely given, specific, informed, and unambiguous. It can be withdrawn for the future at any time.
- **Contract:** Processing is necessary for a contract or pre-contractual measures.
- **Legal Obligation:** Processing is necessary to comply with a legal duty.
- **Vital Interests:** Processing is necessary to protect someone's life or health.
- **Public Task:** Processing is necessary for a task in the public interest.
- **Legitimate Interest:** Processing is necessary for a legitimate interest of the controller or a third party (except when overridden by the individual's interests or fundamental rights or interests).

(2) Data Subjects' Rights
Individuals have the following rights:

- **Right to Access:** Obtain a copy of their data
- **Right to Rectification:** Correct inaccurate or incomplete data.
- **Right to Erasure ("Right to be Forgotten"):** Have data deleted under specific conditions.
- **Right to Restrict Processing:** Limit the way their data is processed.
- **Right to Data Portability:** Receive their data in a structured format.
- **Right to Object:** Object to data processing based on legitimate interest, particularly for direct marketing purposes.
- **Rights related to Automated Decision-Making:** Individuals can con-test decisions made solely by automated means.

(3) Data Protection Impact Assessments (DPIAs)
For high-risk processing, organizations must assess risks to individuals' privacy.

(4) Data Breach Notification
Organizations must report data breaches to supervisory authorities within 72 hours and notify affected individuals if there is a high risk.

(5) Data Protection by Design and by Default
Organizations must integrate data protection measures into systems and processes from the outset.

(6) Appointment of a Data Protection Officer (DPO)
Certain organizations must appoint a DPO to oversee GDPR compliance.

(7) Cross-Border Data Transfers
Transfers of personal data outside the EU and the European Economic Area (EEA) are only allowed if adequate safeguards are in place, e.g. the destination country ensures an adequate level of protection (e.g., EU-approved adequacy decisions), adequate safeguards (such as Standard Contractual Clauses) are in place, or if specific exceptions apply, such as explicit consent.

(8) Fines and Penalties, Damages
Non-compliance can result in significant fines of up to € 10 million or 2% of the annual global turnover, or €20 million or 4% of annual global turnover.
Non-compliance can also result in liability for compensation of material or non-material damage a person has suffered.

GENERAL DATA PROTECTION REGULATION (GDPR), CONT'D

Opening Clauses: In certain areas, the GDPR contains so-called **'opening clauses'**. These clauses allow the EU member states to adopt deviating regulations in certain areas - without affecting the basic principles of the GDPR - in order to take national particularities into account. Depending on the relevance of the following points, it will be necessary to obtain information on the national specifics.

Overview of the most important opening clauses in the GDPR:

Specific requirements for the lawfulness of pro-cessing (to fulfil a legal obligation or processing in the pub-lic interest)	Art. 6 Para. 2 GDPR
Age of consent for children for online services	Art. 8 Para. 1 S. 3 GDPR
Processing of genetic, biometric and health data	Art. 9 Para. 2, 4 GDPR
Processing of data on criminal offences and convictions	Art. 10 S. 1 GDPR
Permissibility of automated decision-making by public authorities	Art. 22 Para. 2 b) GDPR
Possibility of restricting the rights of those affected	Art. 23 Para. 1 GDPR
Obligations relating to the appointment of a data protection officer	Art. 37 Para. 4 S. 1, Art. 38 Para. 5 GDPR
Fines (and statute of limitations)	Art. 83, 84 Para. 1 GDPR
Exceptions for journalistic, scientific, artistic or literary purposes	Art. 85 Para. 1, 2 GDPR
Exceptions for the processing of data from archives or public registers	Art. 86 GDPR
National indicators	Art. 87 S. 1 GDPR
Labour law	Art. 88 Para. 1 GDPR
Exceptions for archiving, scientific or historical purposes or statistical purposes	Art. 89 Para. 2 GDPR

EU AI-ACT

The AI-Act is the central piece of AI legislation in the European Union. This regulation applies directly in all Member States.

Main Goals: the AI-Act stipulates safety requirements for the development and use of AI systems in the EU to protect fundamental rights, health, democracy and rule of law, environment and security while boosting competitiveness and innovation.

Scope of application: The AI-Act applies in all Member States. However, also persons that make, use, import, or distribute AI systems in the EU will need to comply with the rules set out regardless of where they are based. Thus, the AI Act has a global impact whenever the EU is targeted.

Testing and development of AI systems are generally out of scope, except for for high-risk AI systems tested under real-world conditions.

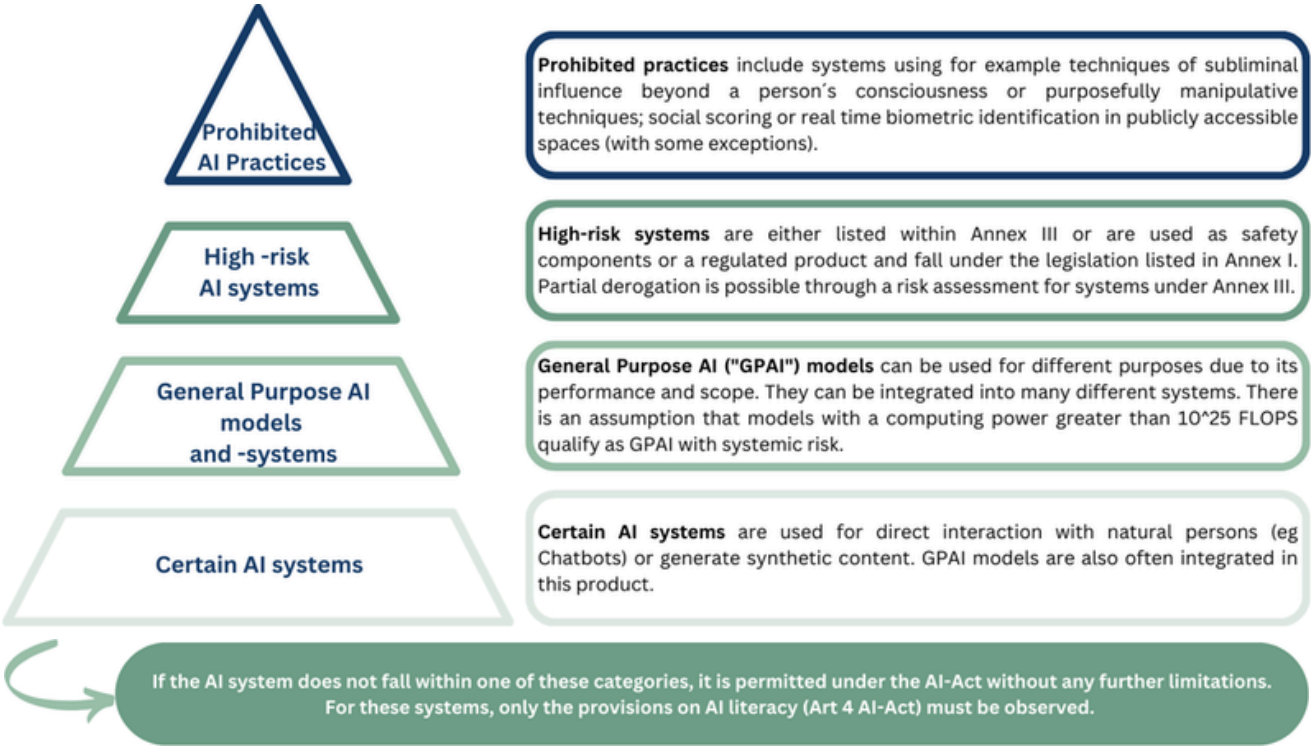
Regulatory Approach: The AI-Act qualifies AI considering its risk potential ("risk-based approach") and sets out different obligations for actors along the AI value chain

Risk based approach:
Different obligations apply depending on the classification of the AI system according to its risk. In a nutshell, compliance obligations increase proportionally with the risk potential of the respective AI system.

Specific actor obligations:
While a majority of duties concern providers and deployers of AI systems, the regulation also puts obligations on importers and distributors, product manufacturers and authorized representatives of providers.

Attention:
Because of the complexity of the AI value chain, one actor can qualify as multiple roles.

The risk categories consist of the following:

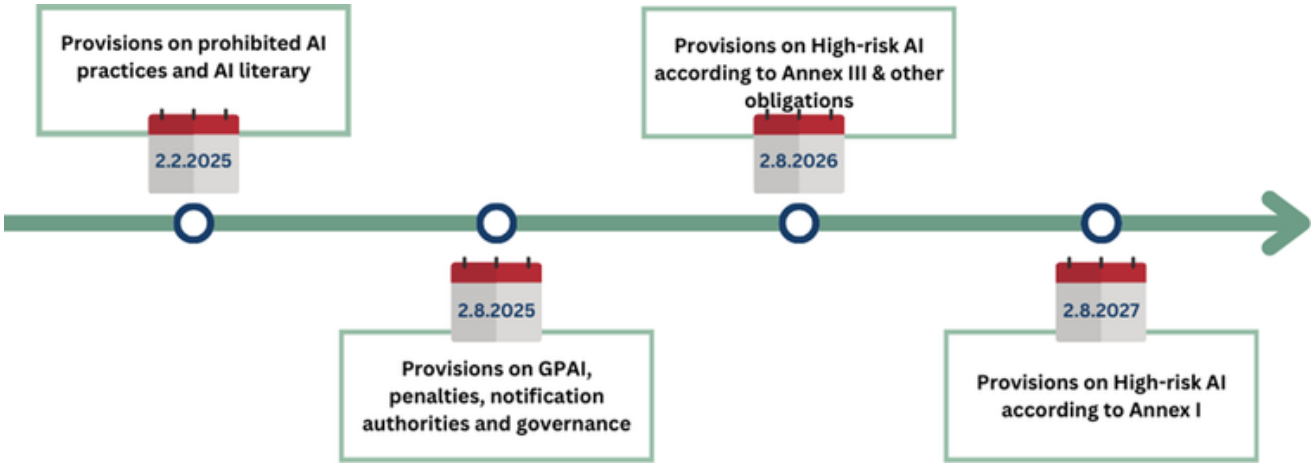


If the AI system does not fall within one of these categories, it is permitted under the AI-Act without any further limitations. For these systems, only the provisions on AI literacy (Art 4 AI-Act) must be observed.

EU AI-ACT, CONT'D

Overview obligations: Obligations under the AI-Act range from information and labelling obligations for certain AI systems and in many cases GPAI models to installing risk management systems, assuring data governance and human oversight, cybersecurity, technical documentation or undertaking a conformity assessment for high-risk AI systems.

Compliance Periods: The obligations gradually enter into application:



Different rules may apply to AI systems that have already been placed on the market before.

Fines: The AI-Act foresees a sanction regime. Fines are limited to the lump-sum or percentage of annual global turnover. While in general the maximum amount consists in the higher amount, fines are limited to the lower amount for Start-Ups and SMEs.

The AI-Act sets out the following fines for non-compliance:

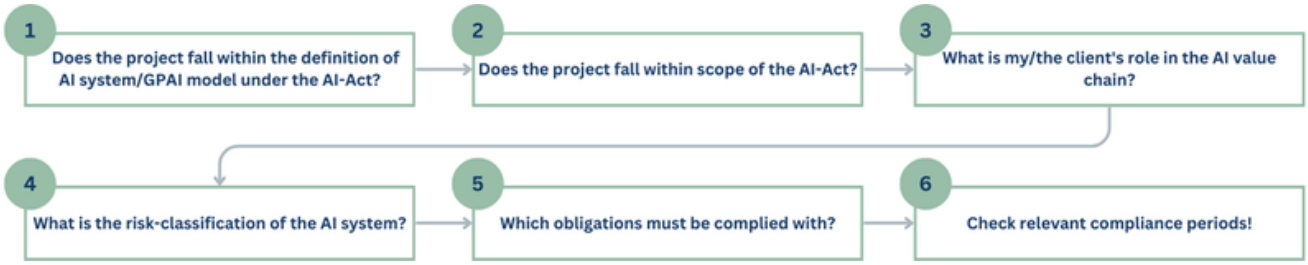
Breach of provisions on prohibited AI practices	Up to EUR 35 million or 7% of turnover
Breach of provisions on • High-risk AI systems • GPAI • Transparency obligations for certain AI systems	Up to EUR 15 million or 3% of turnover
False statements to the competent authority in AI Proceedings	Up to EUR 7.5 million or 1% of turnover

EU AI-ACT

EU AI-ACT, CONT'D

Liability: The EU has adopted amendments to the directive on liability for defective products. The directive includes software, AI systems and model in its scope. Member States will have to transpose the new provisions into national law until 9.12.2026. Additionally, the EU is currently negotiating a proposal for a directive on non-contractual civil liability rules to artificial intelligence. This might further increase compliance risk.

Steps to consider when assessing compliance with the AI-Act:



Special provisions for SMEs and Start-Ups:

- Priority and free access to testing in regulatory sandboxes (for start-ups with seat/subsidiary within EU);
- Facilitation in accessing EU market;
- Information and training for AI-Act compliance including channels of communication with authorities;
- Reduced fees for conformity checks and reduced technical reporting obligations;
- Lower sanctions (fines are limited to the lower amount);
- **Financial aid for startups and SMEs:** The EU offers a wide range of financial support packages for Artificial Intelligence startups and SMEs such as the Large AI Grand Challenge. Furthermore, grants are available under the Horizon Europe program (2021-2027). Calls are published online.

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ALBANIA

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ALBANIA

LEGAL FOUNDATIONS

Albania is a unitary parliamentary republic, the constitutional structure of which is rooted in the principle of checks and balances among three separate and independent branches of the government – the executive, legislative, and judiciary. The Constitution is the highest law in Albania and establishes the basic institutions of a democratic state. Albania has embraced the civil law system and therefore the formal legal sources are the codified rules, which include in a hierarchical order:

1. the Constitution;
2. ratified international treaties (that form an integral part of the domestic legal system);
3. laws of Parliament;
4. acts of the Council of Ministers;
5. acts of the bodies of the local government (binding only within their territorial jurisdiction); and
6. acts of ministers or other central institutions (binding only within the sphere of their jurisdiction).

The primary source of private law is the Albanian Civil Code, while the main governing legislation for criminal law is the Albanian Criminal Code.

Court rulings (precedents) do not constitute a legal source, but 'unifying decisions' of the Albanian High Court are mandatory for the lower courts and the decisions of the Constitutional Court are final and binding from the moment they are published in the Official Journal.

CORPORATE STRUCTURES

Business activity can be organized in various forms of corporate structures however the most common and dominant ones are entrepreneurships, limited liability companies ("LLC") and joint stock companies **("JSC")**.

Entrepreneurship (person fizik)

Entrepreneurs are natural persons who conduct a given independent economic activity that requires a basic level of organization. More specifically, in this form of organization, there are no other administration structures, except for the entrepreneur himself, which is generally the only one responsible for any management issue and decision-making that arises in the course of the activity. Even though it is quite possible to hire employees for the performance of certain duties, they are typically not vested with the power of legal representation of the business.

CORPORATE STRUCTURES, CONT'D

Entrepreneurship (person fizik), CONT'D

Notably, entrepreneurs are fully and personally liable in respect to all obligations that stem from the exercise of the activity, and responsible for their fulfilment with all of their current and future assets or rights (that can be measured in monetary value). Registration with the National Business Centre ("NBC") is required but has only declarative effect. Entrepreneurs are obliged to keep accounting books and compile and disclose their financial statements, but nonetheless, the latter are not an object of control and certification by independent auditing conducted by registered accounting experts.

Limited Liability Companies (shoqëri me përgjegjësi të kufizuar – SHPK)

An LLC is a company established by one or more natural or legal persons and has its own legal personality. The company possesses distinct assets, rights, and obligations, from those of its members. The members are personally liable for the company's obligations only to the extent of their unpaid contributions, constituting the company's basic capital. Exceptionally, in cases of the piercing of the "corporate veil," primarily associated with instances of abuse or fraud, members may be held personally liable with all their personal assets.

These companies acquire legal personality only upon registration with the NBC. The minimum capital is approximately 1 Euro. Members can contribute to the basic capital either in cash or in kind (excluding services). Payment of the share capital is not required to be made before the creation of the company. In principle, the value of the shares and voting rights is proportionate to each member's contributions in the capital; however, shareholders may decide otherwise in the company's statute.

In terms of corporate governance, the administration of the company is structured in alignment with the regulations specified in its statute. Generally, the decisions related to day-to-day activities are the competence of the director/s, while important decisions, such as the setting of business policies, the appointment or dismissal of the directors, the amendment of the statute, reorganization or dissolution of the company etc., fall under the prerogatives of general assembly (the meeting of all the members).

Joint Stock Companies (shoqëri aksionare – SHA)

JSCs, similarly to limited liability companies, can be established by one or more natural or legal persons and have a separate legal personality from its founders, who are personally liable only to the extent of their unpaid contribution in the company's capital. The capital of a JSC is divided into shares with same par value. The legal minimum capital for companies with a public offering is approximately EUR 96,000, while for those with a private offering, it is approximately EUR 35,000. Similarly to LLCs, the capital contributions can be either in cash or in kind (excluding services). At least one-quarter of the in-cash contributions and the entire in-kind contributions must be paid or transferred before the registration of the company.

Regarding capital rules, a certain portion of the annual profit shall be allocated to a mandatory reserve (5% of the net profit each year until it reaches 10% of the registered capital) and is thereby excluded from distribution as dividend.

In terms of corporate governance, the company can opt for either a one-tier system, where the executive organ is a board of directors comprising both managing directors and board members, or a two-tier system, wherein the managing directors form a distinct organ monitored by a supervisory board. The primary distinction between the two models is that, in the two-tier system, members of the supervisory board cannot be appointed as directors, and the board itself does not participate in the management decision-making process, which remains exclusive to the director/s. The appointments and dismissal of these organs fall under the purview of the general assembly (comprising all shareholders), along with any other prerogatives assigned by law or the statute.

ALBANIA

ENTERING THE COUNTRY

The Albanian Law on Investments guarantees equal treatment and protection of foreign investors. Foreign investors are not subject to any special authorization from the state institutions and are entitled to:

1. employ both foreign and domestic employees without any restrictions;
2. be guaranteed protection against expropriation,
3. freedom to transfer abroad any funds or properties that are related to the foreign investments;
4. enjoy the same treatment for losses incurred due to armed conflicts, states of emergencies or other similar situations;
5. benefit from discretionary special state protection granted by the state to foreign investments, in cases where the investment is carried out in public or tourist infrastructure, energy or agriculture.

In this aspect, the Strategic Investment Law, without distinguishing between domestic and foreign investors, puts forward a range of advantages for operators that invests a certain amount (as specified in the law) in a sector deemed strategically important (with technology expressly mentioned). The advantages include:

1. a fast-track procedure to obtain the necessary permits, licenses and other mandatory authorizations;
2. unification of the procedures in case the process requires the involvement of different sectors and/or several procurement or tendering procedures;
3. state support through the provision of the necessary infrastructure including roads, telecommunication, water and energy supply, the temporary use of public property, and the application of the expropriation provisions etc.

Noteworthy, due to a prohibition introduced in 1998 and not updated since, the transfer of ownership rights over agricultural land, forests, meadows, and pastures is not recognized for foreign individuals and legal entities. However, this prohibition is mitigated in practice, as foreign individuals or entities can own the types of lands mentioned above: (i) indirectly, through an Albanian-established legal entity fully owned by foreign persons, and (ii) by having the right to lease it for up to 99 years.

Also, a recent amendment of the Albanian Law on Investments provides that direct foreign investments that are linked to, or affect, critical public infrastructure, critical technologies and dual-use goods, the supply of critical inputs, access to sensitive information, or media freedom, will be subject to a screening process. However, the regulatory acts that will detail the rules and procedures for this process have not been enacted yet.

The Albanian parliament has enacted a sectoral law that provides customized benefits for startups for a period up to two years (with a possibility of extension) after attaining the status as a start-up. These include:

1. the availability of a one-stop-shop service, encompassing the receipt of all essential information regarding the legal framework related to this field;
2. the potential receipt of state grants, subject to meeting legal criteria and a successful application to the competent authorities.

Moreover, Albania has signed approximately 45 bilateral investment treaties, various other treaties with investment provisions (i.e the Association Agreement with EU, the Energy Charter Treaty, CEFTA etc.), and also related investment instruments (such as TRIPS, GATS, New York Convention among others).

ALBANIA

INTELLECTUAL PROPERTY

Trademarks

What is protectable? Any sign, and in particular words, including personal names or the designs, letters, numbers, colors, shape of the goods or their packaging or sounds, provided that they are capable of individualizing and clearly distinguishing the particular goods or services from those marketed by other natural or legal persons and upon the condition that they are duly registered in the competent authority.

Where to apply? The institution vested with the authority to administer the filings for the national registration of the marks is the General Directorate of Industrial Property. This office exercises an ex officio control over the fulfillment of the formal requirements of the request and examines a certain category of grounds for refusal (absolute and/or relative grounds), as well as addresses the objections of third parties that are raised within a certain deadline. Provided that there are no obstacles for the registration of the mark, and following the payment of the respective fee, it issues the registration certificate, which grants the user of the mark exclusive rights over it. The owner of the mark can also opt for international protection by filing an application with the International Bureau (the mechanism provided under the Madrid Agreement) through the national office and only after the latter has registered the given mark. If the Bureau, after conducting the necessary verifications, approves the application, the mark enjoys the same protection in each of the Contracting Parties without the need to undertake any further steps.

Duration of protection? The registered mark is protected for 10 years starting from the date of the filing, with the option of unlimited extensions (10-year periods), subject to a request made for this purpose and the payment of a renewal fee.

Cost? The application fee is 7,000 ALL (approximately EUR 70), and the registration fee is 8,000 ALL (approximately EUR 80).

Patents

What is protectable? Patents are granted for the inventions that can take the form of either products or processes, and that made in any technological field, provided that:

1. the invention does not fall under the scope of the exceptions, enacted by the law, of those matters that cannot be subject to patentability;
2. have industrial applicability (including agriculture), meaning possessing the capability to be used for conducting practical and technical activities;
3. presents a novelty, in the sense that it is not a reflection or part of a prior art, accomplishments that have been exposed to the public before the filing date;
4. contains an inventive step, meaning that it has achieved a qualitative leap in the respective field, a progress that cannot be deduced as obvious based on the knowledge that existing at the time by the ordinary experts of that field; and
5. it is disclosed in a clear manner in the application.

Where to apply? The application to obtain a patent must be submitted to the General Directorate of Industrial Property, which examines the formal requirements, and in the event that no impediments are detected in these respects and no objections by third parties are raised (or have been unsuccessful), the office grants the patent.

Duration of protection? The protection accorded by the legislation to the patent owner lasts up to a maximum of 20 years, but the validity of the patent is conditioned on its yearly renewal that is completed by a payment of a certain fee. Additionally, following a separate submission by the patent proprietor or their authorized party, the General Directorate of Industrial Property may grant Supplementary Protection Certificates for medicinal products and plant protection products. These certificates become effective upon expiration of the corresponding patent and are valid for a maximum duration of 5 years.

Cost? The application fee is 7,000 ALL (approximately EUR 70) and the issuance fee is 6,000 ALL (EUR 60), while the renewal fee increases progressively from the minimum 5,000 ALL (approximately EUR 48) in the first year to the maximum of 70,000 (approximately EUR 670) in the last.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

Employee invention and inventor bonus?
If an invention is made during the employment relationship, the patent right belongs to the employer, unless the parties agree otherwise. An invention is considered made during employment when it results from the employee's normal duties, instructions from the employer, and/or the use of the employer's resources.

If the employment contract does not set a specific reward, the employee is entitled to fair and reasonable compensation (financial or in kind), determined through an agreement considering the employee's contribution, the employer's investment in development/patenting/exploitation, and the invention's economic value. If the employer and employee cannot agree on the amount or form of this compensation, either party may refer the dispute to the competent court.

Industrial Design

What is protectable? The features of the external form of a product, that serve an ornamental or aesthetic purpose. To be included in the scope of the protection the design must firstly have a novel and individual character, meaning that it must not be identical or similar to any prior industrial design that is known by the public and secondly, it needs to be registered so that the creator can have exclusive ownership rights over it.

Where to apply? The registration procedure is the competence of the General Directorate of Industrial Property, which is responsible for the verification of the compliance of the formal requirements of the request and examines a certain category of grounds for refusal (absolute and/or relative grounds), as well as addresses the objections of third parties that are raised within a certain deadline. If the results from these control mechanisms are favorable to the applicant, the office registers the design.

Duration of protection? The registration yields legal effects for 5 years starting from the date of the application, and it can be renewed every five years, subject to a payment of a fee. In any case, the protection cannot be extended to a period that surpasses 25 years.

Cost? The application fee is 4,000 ALL (approximately EUR 40) for the first design and 2000 ALL (approximately EUR 20) for any additional design (in case of multiple design) and the registration fee is 6,000 ALL (approximately EUR 60). The renewal fee is 6,000 ALL (approximately EUR 60).

Industrial Design created by a mandate agreement or by an employee:
If the industrial design is made by a mandate agreement or by an employee, in the execution of contractual duties, then the right for an industrial design belongs to the principal/employer respectively, which is nevertheless obliged to compensate the person/employee if the economic value of the industrial design is considerably higher than it was foreseen in the contract.

Even in the case that the industrial design is not a result of the employee's fulfilment of the contractual conditions but is attributed to the information or means that the employee obtained because of his employment, this right is enjoyed by the employer under the condition that he expresses his interest for the industrial design to the employee within a certain legal timeframe (i.e., 4 months upon receiving a notification on the industrial design), and fairly compensates the employee.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

The Albanian legislation has strict rules against the illegal appropriation, usage or publication of the information that constitutes a trade secret. A trade secret is considered any information that:

1. is not widely known or easily accessible to persons who generally encounter that type of information;
2. has a commercial value because it is secret; and
3. has been subject to reasonable measures taken by its legitimate holder with the aim of preserving its secrecy.

The obligations that arise in respect to trade secrets do not cease after a certain period. Hence the protection is indefinite. It is a local practice to reinforce such obligations by entering specific clauses in the contracts.

Copyright

What is protectable? The object of protection of the copyright law is any original intellectual creation in the literary, scientific and artistic field, having an individual character, irrespective of the manner and form of its expression, its type, value or purpose. Copyright protection is granted immediately with the creation of a work and no mandatory registration is required. However, authors may voluntarily register their works in a special register at the Copyright Directorate to obtain stronger evidence vis-à-vis third parties.

Exploitation of copyright protected work? Copyright owners have moral rights (i.e., the indispensable right to be named as author) and pecuniary rights to exploit the work (i.e., economic copyrights). The pecuniary rights are transferrable to third parties, while the moral rights are not.

Duration of protection? The pecuniary rights are protected until after 70 years from the death of the author and in the case of a co-authored work, copyright lasts for 70 years from the death of the co-author who has lived the longest. Moral rights are not subject to any time limitations.

DATA PROTECTION/PRIVACY

Data protection in Albania is governed by the recently enacted Law No. 124/2024 on Personal Data Protection **(the "DP Law")**, which came into effect in February 2025. Fully aligned with the European Union's General Data Protection Regulation (GDPR), the DP Law imposes rigorous compliance requirements on both data controllers and processors. Its scope extends to controllers and processors based in Albania, regardless of whether the processing occurs within its borders. Additionally, the law applies to foreign controllers outside Albania whose data processing activities involve offering goods or services to, or monitoring the behavior of, data subjects within Albania.

Registration and Compliance Obligations

Foreign controllers are required to appoint a representative within the territory of the Republic of Albania and to notify the Personal Data Protection Commissioner (the "Commissioner") for its identity. Also, certain entities must appoint a Data Protection Officer (DPO) to oversee compliance, act as a liaison with the Commissioner, and address data protection concerns raised by data subjects. This requirement applies to (i) public authorities, (ii) entities engaged in large-scale monitoring of data subjects, or (iii) those processing sensitive data such as health records or criminal information.

Moreover, the controllers and processors are obliged to thoroughly document their compliance with the legal requirements, storing in written and electronic format the following:

DATA PROTECTION/PRIVACY, CONT'D

- Identity and contact details of the data controller or processor.
- Specific purposes, legal basis for the processing and data retention periods.
- Categories of data subjects and types of personal data processed.
- Proposed international data transfers.
- Technical and organizational measures implemented to safeguard data integrity and confidentiality.

Core Principles and Obligations

The new legislation is anchored in the following foundational principles:

1. Transparency and Lawfulness: Processing must be carried out transparently, with data subjects adequately informed and a valid legal basis underpinning the activity.
2. Purpose Specification: Data must only be collected and processed for clearly defined and legitimate purposes.
3. Data Minimization: Collection is limited to data strictly necessary for the intended purpose.
4. Accuracy: Controllers are obligated to ensure data remains accurate and current.
5. Storage Limitation: Data retention must not exceed the duration required to fulfill the processing purpose.
6. Security and Confidentiality: Adequate safeguards must be in place to protect against unauthorized access, breaches, or data loss.

Additionally, data controllers and processors bear the responsibility to facilitate the exercise of data subject rights. The DP Law provides the right to access and correct data, receive information on processing purposes and legal basis, and request erasure (the "right to be forgotten"). It also supports data portability, allowing data transfer in a structured format, and grants the ability to object to specific data processing activities like direct marketing. Additionally, individuals can withdraw consent for processing based on their approval. These rights offer greater control and protection over personal information.

International Data Transfers

International transfer of personal data to jurisdictions deemed to have an adequate level of protection is unencumbered. However, for transfers to jurisdictions lacking such designation, specific protection measures such as the insertion of standard contractual clauses, the usage of certified mechanisms or compliance with restrictions approved by the Commissioner are required. Adherence to such obligations is not necessary in the cases of:

- Explicit consent from the data subject.
- Necessity for the execution of a contract involving the data subject.
- Fulfillment of a legal obligation or a compelling public interest.
- Protection of the data subject or another person's vital interests.

Stringent Penalties for Non-Compliance

A notable hallmark of the DP Law is the imposition of severe penalties for violations. Breaches may result in fines up to 4% of the company's global annual turnover or 2 billion ALL (approximately EUR 20.4 million), whichever is greater.

In addition to financial penalties, the Commissioner has the authority to enforce corrective actions, such as issuing warnings, ordering the deletion of unlawfully processed data, or suspending or restricting specific processing operations.

ALBANIA

ARTIFICIAL INTELLIGENCE

Artificial Intelligence ("AI") is defined by the Law on Electronic Governance as "the simulation of human intelligence processes through systems and computer algorithms." While subordinate acts have elaborated on the methodology and technical standards for the use of AI technology in Albania.

A key aspect of the regulations are the steps that must be undertaken by the public institutions and private entities to ensure effective risk management and data security when using AI technologies. The recommended courses of action include creating clear plans for AI applications, establishing policies for personnel training, classifying AI technologies by risk level, testing and validating systems, and documenting AI-related activities.

The regulations also highlight the importance of ethical considerations, such as privacy, data protection, transparency, accountability, and human monitoring, as well as the prevention of bias and discrimination in AI systems. On the same light, certain restrictions for AI use are envisaged. The restrictions focus on AI systems that manipulate or deceive individuals, exploit their vulnerabilities based on age, disability, or social/economic situations, or categorize them based on sensitive characteristics like race, gender, or sexual orientation. Additionally, AI systems that evaluate or classify individuals over time, leading to harmful or unfair treatment, are prohibited, especially when the treatment is unjustified or disproportionate to their behavior.

Other pivotal features of the framework include incentivizing investments on the development of AI, the creation of a favorable political environment, international cooperation and the preparation for the dynamic changes on the market.

The relevant provisions also provide specific guidelines for the monitoring process, which must adhere to international best practices, particularly those established by the USA, EU, and OECD. A structure is set for ongoing monitoring and compliance, where the National Information Society Agency (AKSHI) and other relevant ministries will oversee the implementation and management of AI systems to ensure the conformity with the legal requirements.

Artificial Intelligence is now designated as a priority sector. The government has pledged to introduce a framework that would enable the integration of AI in government electronic systems, public procurement procedures, approximation of the domestic legislation with EU acquis, the provision of quality public services, school curriculums, scientific and academic research, data protection measures, etc. In fact, minimal application of AI technology in public procurement procedures has already commenced. Finally, it is also worth mentioning that in November 2023 Albania has ratified a bilateral treaty with the EU on Albania's participation in the Digital Europe Programme (2021-2027).

EMPLOYEES/CONTRACTORS

The Albanian legislation offers two methods for engaging a person to perform specific work or services – either as an employee or as an independent contractor/entrepreneur. In the former scenario, the parties formalize their arrangement through a written employment contract, while in the latter, they enter into a service agreement. These two relationships are governed by distinct legal frameworks (Labour Code and Civil Code), resulting in varying sets of rights and obligations.

It should be noted that, until now, entrepreneurs have benefited from a more favourable tax treatment, leading to the frequent exploitation of certain features in practice through the misrepresentation of employment relations as service contracts. New amendments that have entered in force on January 1st 2024 intend to reduce such instances.

EMPLOYEES/CONTRACTORS, CONT'D

Foreign citizens can work in Albania by obtaining a single permit, which provides both legal residence and employment rights in the country. The application is submitted online through the governmental platform. The processing time for the permit generally ranges from 1 to 2 months, particularly for citizens of EU and Western Balkan countries.

Work for hire: Apart from employment and service contracts with an independent contractor, there is no specific work-for-hire regime in Albania. In the absence of specific contractual provisions, economic rights either generally belong to the author of the work or are limited in time. Therefore, it is advisable to include clauses covering IP issues in the specific agreements.

Taxes and social security: The employer is bound to declare and register the employees to the relevant institutions and to withhold from their gross salary the health and social security contributions as well as the personal income tax.

Termination: The Albanian regime for employment termination generally favours employees, whereas terminating a service agreement is comparatively easier. The Albanian Labour Code outlines two procedures for the termination of employment contracts:

1. The standard procedure necessitates the employer to follow specific steps, which include conducting a meeting with the employee, sending a notification and providing reasons for termination, and adhering to the mandatory notice period. Grounds for termination can be related to the abilities or behavior of the employee, or factors associated with the operational conditions of the company. Failure to comply with the procedure entitles the employee to seek compensation equivalent to two months' salary, while a breach of the notice period triggers damages up to three months' salary and the application of immediate termination rules (addressed below).
2. Immediate termination occurs when there are serious circumstances that make it unreasonable for the employment relationship to continue. The law explicitly identifies grounds such as a serious breach of obligations or repeated breaches with non-serious fault despite written warnings from the employer. If the immediate termination is not justified, the employee may seek up to twelve months' salary.
3. On the other hand, service agreements concluded for an indefinite term can be terminated for non-fulfilment of the obligations by one party, or for any other cause that is specifically contemplated in the contract.

CONSUMER PROTECTION

The Albanian Law on Consumer Protection:

- Guarantees to the consumers a comprehensive set of rights including the right to file a complaint, the right of information, the right of legal protection of their life and health, the right of compensation, the right of legal protection, the right to form an organization and/or other form of gatherings regarding consumer protection and their representation in the decision-making processes etc.
- Obliges the traders to place on the market only safe products taking into account the i) characteristics of the services; ii) effect on the other services and goods; iii) presentation of the services, any warnings or information regarding the services; iv) the categories of consumers at risk when using the services (in particular children and elderly); and v) potential risks that service can cause, if not properly used.
- Entails an obligation for the traders to accurately inform the consumers on the trading items and describe in the labelling the characteristics of the goods that they offer in the Albanian language, safely pack them, clearly display their price, and give the receipt to the buyer.

CONSUMER PROTECTION, CONT'D

- Prohibits unfair commercial practices in the form of i) misleading practices and/or omissions, that through false information or material omissions deceive or are likely to deceive the average consumer or ii) aggressive practices, that consist of the using of harassment, coercion, physical force or undue influence on the part of the trader aiming to diminish the ability of the consumer to make a free and unconfined decision.
- Regulates marketing of an item, by prohibiting i) misleading advertising (designated to deceive the consumer), ii) unfair advertising (discriminatory based on sex, race, religion etc.) and restricting comparative advertising (references to other traders or their products).
- Prohibits unfair contractual conditions as detailed under the section on Terms of Service below.
- Governs the sale contracts with the consumer (i.e., providing product information, responsibilities and liabilities of the traders, rights of the consumers, product compliance etc.) including i) distance contracts (i.e., contracts that are concluded through means of communication), ii) off-premises contracts, iii) special contracts (i.e., contracts for the supply of water, energy and telecommunication services), and iv) travel package contracts.
- Designates the responsible State bodies for the monitoring and enforcement of the legal requirements regarding consumer protection law and regulates the establishment of non-governmental organizations in the realm of consumer protection.

TERMS OF SERVICE

Terms of service prepared by one of the contracting parties have effects on the other party if, at the moment of the contract formation, the latter, exercising due care, was aware or should have been aware of them. When the contractual conditions include clauses related to limitations of liability, restrictions on raising counterclaims, limitations on contractual freedom in relations with third parties, derogations from the competence of the courts, etc., they are considered effective only when separately adopted in writing by the other party.

More specifically, from a Consumer Protection Law standpoint, terms of service should steer clear of incorporating what are referred to as unfair contractual provisions, which encompass (for instance):

- exclusion or limitation of the trader's liability for harms caused to the consumers due to the traders actions or omissions;
- inappropriate restrictions of the consumer rights;
- setting of unproportional penalties for consumers in case of non-fulfilment;
- exclusive right of the trader to interpret the contractual provisions;
- the right of the trader to unilaterally change the characteristics of the goods provided;
- an obligation to the consumer to fulfil his obligations, regardless of the conformity with the contract on the part of the trader etc.

TAX/FUNDING

Albanian start-ups are typically organized as commercial companies. Therefore, we confine our tax overview only in those elements that are relevant to commercial companies.

Corporate Tax

Albania's corporate tax rates vary based on the size and sector of the business. Under specific conditions, enterprises with an annual gross income of up to ALL 14,000,000 (approximately €140,000) are exempt from corporate tax until 2029. While the government enacted legislation last year to eliminate these exemptions, the Constitutional Court subsequently declared the changes unconstitutional. However, the possibility of these exemptions being revoked before 2029 cannot be ruled out. Companies in sectors like agritourism and manufacturing benefit from a reduced corporate tax rate of 5%until 2029. Businesses that do not fall into these categories are taxed at the standard corporate rate of 15%.

TAX/FUNDING, CONT'D

Withholding Taxes and Capital Gains

Dividends and profit distributions in Albania are taxed at 8%, while royalties, interest payments, and any other form of investment income are subject to a withholding tax of 15%. These rates may be reduced or eliminated under double taxation treaties in force, depending on the applicable agreement. There is no special regime for capital gains tax, and it is subject to the standard rate of 15%.

Value-Added Tax

In Albania, the standard VAT rate is 20%, with reduced rates for certain sectors. For example, a 6% VAT rate applies to tourism-related services, agritourism activities, book supplies, and other similar services. A 10% VAT rate is applied to the supply of agricultural inputs, including chemical fertilizers, pesticides and seeds. Additionally, various activities that serve public interests, such as medical services, educational supplies, postal services, are completely exempt from VAT.

Funding and Incentives

The Albanian legal framework offers several mechanisms aimed at supporting the development and growth of startups in the country.

Among the most prominent instruments are the **state grants**, consisting of an annual budget specifically designed to offer direct financial support to eligible startups in priority sectors such as technology, innovation, environment etc. In 2026, the amount allocated for this purpose is 300 million ALL (approximately 3 million EUR).

To qualify for such funding, startups must be registered in Albania and meet certain eligibility criteria. These criteria are intended to ensure that the funding is directed towards companies that are likely to have a positive impact on the local economy. Startups must demonstrate innovation in their business models, products, or services, show the potential for growth and sustainability in the Albanian market, as well as submit reliable business plans and financial projections.

The government has also set up a **one-stop-shop service**, providing entrepreneurs and registered startup companies with comprehensive support for various legal, fiscal, and administrative needs, all free of charge.

For more information, please visit the website Start Up Albania in https://startupalbania.al/.

Additionally, another category of state grants is dedicated to the development of Micro, Small, and Medium Enterprises (MSMEs) which are categorized by the size of their annual turnover (up to 250 million ALL) and number of employees (up to 249). To support these businesses, the Albanian government has established a development fund, managed by the Albanian Investment Development Agency (AIDA). The fund offers grants to MSMEs for initiatives such as enhancing competitiveness, fostering innovation, developing new products, and supporting female entrepreneurs. Eligible businesses must be registered for at least 12 months, be in good financial standing, and comply with tax and insurance obligations.

Under this framework, in 2025, the government's support under the Ministry of Economy, Culture and Innovation's economic program "Support for Economic Development" was delivered through two main schemes. First, a dedicated operating expenditure scheme provided a total of ALL 100,000,000, covering 100% of approved eligible costs, with support capped at ALL 2,500,000 per project. Second, support for capital expenditure (investment projects) totaled ALL 31,830,000. Within this envelope, ALL 21,830,000 was allocated to competitiveness projects (covering 100% of approved costs, up to ALL 1,500,000 per project), while ALL 10,000,000 was allocated to artisan projects (covering 100% of approved costs, up to ALL 1,000,000 per project).

TAX/FUNDING, CONT'D

Importantly, Albania also promotes technology and innovation-driven investment through dedicated regimes, including Technology and Science Parks. The first approved project is Durana Tech Park, which offers a structured resident framework for technology companies and research and development (R&D) activities. It provides a package of incentives such as customs facilitation, VAT relief for qualifying supplies and equipment, multi-year corporate tax relief for income generated within the park, employment-related incentives for R&D personnel, and support for training costs, subject to admission requirements and a resident agreement.

Finally, Albania offers tax exemptions to digital nomads—foreign professionals providing services through technology to international clients, without a registered office in the country. During the first 12 months, they are not categorized as tax residents in Albania.

WHAT ELSE?

UBO Register

In parallel with the company incorporation or immediately upon its registration, the company must declare and register its ultimate beneficial owner(s) holding directly or indirectly 25% or more of the shares or voting rights. The initial UBO registration has proven to be complicated in practice and has caused delays in the company incorporation process, considering the difficulties for foreign entities to evidence their chain of control and submit documents in due form. Failure to complete the initial registration of the ultimate beneficial owner(s) results in the suspension of the registration of the LLCs in Albania.

E-governmental Portal

Upon company registration, the startup must activate its account on the governmental platform e-Albania. Numerous services from state authorities, such as first employee registration and obtaining an electronic certificate for tax purposes, are exclusively available online through the company's account. Additionally, filings made through the governmental platform usually require obtaining a certified electronic signature issued by the competent authorities in Albania, which is valid for one year and is renewable.

Cybersecurity

Cybersecurity in Albania is primarily regulated by Law No. 25/2024 "On Cybersecurity", which establishes a national framework broadly aligned with the EU's NIS2 approach. The law focuses on entities whose information systems and network services are essential for the continuity of key functions and services, covering both public bodies and private operators whose disruption could affect the public interest, the economy, or the delivery of important services. The law applies to organizations that operate, administer, or provide information infrastructures, networks, and information systems in designated sectors (including entities classified in the law's annexes). Covered entities are generally required to implement cybersecurity and risk-management measures, maintain internal procedures and documentation, and comply with incident notification/reporting obligations when cybersecurity events occur.



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ARGENTINA

LEGAL FOUNDATIONS

Argentina is a federal republic, consisting of 23 provinces and the Autonomous City of Buenos Aires. The Argentine Constitution establishes a federal governmental structure where the provinces reserve all the powers which have not been delegated to the federal government. Thus, two distinct orders of legal governance coexist in Argentina, **Federal** and **Provincial**.

The Argentine Constitution also provides for a tripartite system of government consisting of an executive branch, headed by the President, the legislative branch in the form of a Congress divided into two chambers – the Senate and the Chamber of Deputies–, and the judicial branch. Provincial governments are organized along similar lines.

Argentina follows the **civil law** system. Accordingly, Argentine substantive and procedural law is mainly codified.

In the federal sphere, the Federal Constitution represents the supreme source of legal order, along with certain international human rights treaties that were expressly conferred constitutional status through the 1994 constitutional amendment. Following the Constitution are all international treaties and conventions entered into by the Federal Government. Next, in descending order, follow federal laws, executive decrees and resolutions and other administrative acts of the executive branch. Subordinate to the federal sources of law are the provincial constitutions, provincial laws, and provincial administrative rules or acts.

Argentine **private law** is mainly codified in the Argentine Civil and Commercial Code, whose latest amendment entered into force on August 1st, 2015 ("CCCN"). The CCCN governs the relationship between individuals (liability, contracts, property law, family and inheritance, private international law). Besides, the national legislative branch has enacted several legal statutes regarding specific fields of law (for example: Companies' Law, Consumer Law, Employment Law, Personal Data Protection Law, Bankruptcy Law). These statutes are continuously updated.

Argentine **criminal law** is mainly codified in the Argentine Criminal Code ("ACC"), which includes: (i) rules for the geographical application of Argentine criminal statutes; (ii) rules on criminal liability, recidivism and attempt; (iii) rules for the prosecution of criminal actions and statutes of limitations; and (iv) criminal definitions and applicable penalties. However, the criminal definitions in the ACC are not exhaustive, as several substantive laws introduced criminal offences.

The Argentine judicial system is divided into federal and provincial courts. The supreme judicial power is vested in the Argentine Supreme Court of Justice. Since Argentina has adopted a civil law system, case law only constitutes a source of interpretation of the written statutes and codes, but precedents are not binding. In this sense, although lower courts tend to follow decisions handed down by the higher courts (especially from the Supreme Court), their rulings are not binding.

CORPORATE STRUCTURES

Principal Types of Business Entities

Foreign companies may conduct business in Argentina on a permanent basis or they can appoint a local commercial representative, set up a branch, incorporate a local corporate entity (subsidiary), or acquire shares in an existing Argentine company.

The main investment vehicles used by non-resident individuals and foreign companies are the following: branch, corporation (Sociedad Anónima), and limited liability company (Sociedad de Responsabilidad Limitada).

It is worth noting that Law No. 19,550 (the "LGS" for its acronyms in Spanish) recognizes single-shareholder corporations (Sociedades Anónimas Unipersonales, or SAU) as a corporate entity that can be adopted. In addition, Law No. 27,349 (Ley de Apoyo al Capital Emprendedor) has introduced a new type of legal entity called simplified corporation (Sociedad por Acciones Simplificada or SAS).

Requirements for the registration of foreign entities as shareholders of local entities substantially vary from jurisdiction to jurisdiction. Foreign companies incorporated abroad and registered in any jurisdiction of Argentina that hold shares or will hold shares in companies domiciled in the City of Buenos Aires must also be registered with the IGJ and registrations in any other registry are not enforceable against the IGJ.

As a general principle, all types of Argentine companies and Argentine branches of foreign companies are considered Argentine resident taxpayers and subject to the same tax treatment. Thus, from a tax perspective, there are no relevant differences between carrying out businesses in Argentina through any of those vehicles.

Branch of a Foreign Entity

Any company duly organized and existing in accordance with the laws of its country of origin can set up a branch in Argentina. However, the IGJ has prohibited the registration of foreign companies that lack the capacity or authorization to conduct business in their place of incorporation, as well as those incorporated in non-cooperative or low- or no-tax jurisdictions.

In principle, it is not necessary to allocate capital to the Argentine branch, except as required for regulatory matters (e.g., insurance or reinsurance companies). The branch must keep separate accounting records in Argentina, file annual financial statements and comply with the AIR regime described above, among other obligations related to supervision of the IGJ.

CORPORATE STRUCTURES, CONT'D

Corporation (Sociedad Anónima or SA)

Capital stock and Shareholders: An SA requires at least two shareholders (individuals or legal entities) and a minimum capital of ARS 30,000,000 (approximately USD 21,200 at the exchange rate at the time of writing), fully subscribed at incorporation, with at least 25% paid in and the balance payable within two years thereafter; foreign individuals and companies may hold up to 100% of the capital, which is divided into registered shares in Argentine currency, generally freely transferable subject to by-law restrictions if they do not effectively prevent the transfer of shares.

Management and Representation: A board of directors elected at a shareholders' meeting manages the SA. Directors, and even the president of the company, may be foreigners. Even so, most of the board members must be Argentine residents.

Shareholders' Meetings: A shareholders' meeting must be held at least once a year to consider the annual financial statement, the allocation of the results of the fiscal year, and the appointment of directors and statutory supervisors. Shareholder resolutions must be recorded in minute books.

An SA must maintain a share registry, attendance records for shareholders' meetings, minutes of shareholders' and board meetings, accounting books, and, if applicable, a supervisory committee minutes book.

Supervision: Argentine companies are subject to the external supervision of the IGJ, and the internal supervision of controllers or supervisors (síndicos / comisión fiscalizadora) appointed by the shareholders, if required by law.

Shareholder Liability: Shareholders are generally liable only up to their capital contributions; unpaid shares must be fully paid within two years of subscription.
Shareholders with conflicts of interest must abstain from voting and may be liable for resulting damages. Those voting for resolutions later declared null are jointly and severally liable for the damages caused.

Liability of Directors and Managers: All directors and managers of an SA are subject to a standard of loyalty and diligence. Noncompliance with these standards results in unlimited joint and several liability.

CORPORATE STRUCTURES, CONT'D

Single-Shareholder Corporations (Sociedades Anónimas Unipersonales or SAU)

Incorporation Requirements: Since a SAU is a type of SA, it has the same incorporation requirements as an SA, with these additional requirements: SAUs can only be incorporated as corporations (SAs or sociedades anónimas), they cannot be shareholder in another SAU and share capital must be subscribed and paid upon incorporation or capital increase.

Supervision: SAUs are subject to permanent government supervision under the LGS. They must appoint a statutory supervisor and comply with ongoing filing requirements with the relevant public registry, including shareholders' meetings and financial statements. Due to these obligations, SAUs are generally costly and unsuitable for small-scale businesses.

Simplified Corporations (Sociedades por Acciones Simplificadas or SAS)

These types of corporations were introduced as part of a law passed in 2017 to promote entrepreneurial activities in Argentina.

Incorporation: Incorporation may be completed quickly—potentially within 24 hours if filed electronically using standard forms—though timelines can vary due to regulatory requirements. Incorporation or amendments can be made by public deed, private instrument, or electronically with a digital signature, and meetings may be held remotely.

Board of Directors: A SAS must have at least one regular and one alternate director (if no statutory supervisors), with at least one regular director residing in Argentina.

Limitations: A SAS cannot incorporate or participate in another SAS nor be controlled by or related (over 30%) to large corporations included in section 299 of the LGS.

Initial Corporate Capital: Initial capital must be at least twice the minimum salary, divided into shares, with capital integration governed by the by-laws.

Limited Liability Companies (Sociedad de Responsabilidad Limitada or SRL)

Corporate Capital and Partners: An SRL may have 2 to 50 partners, individuals or entities, including foreign partners if permitted under their home laws. Capital must be fully subscribed at incorporation, divided into quotas in Argentine currency; at least 25% must be paid in at incorporation, with the balance due within two years. Non-cash contributions must be fully paid. Quotas have equal value, grant one vote each, and partners have preemptive rights.

Management and Representation: One or more managers may be appointed (partners or third parties), with representation powers defined in the by-laws. Resolutions are governed by the by-laws and may generally be adopted in writing, except SRLs with capital of ARS 50 million or more, which must hold meetings to approve financial statements. Special majority rules apply, particularly for by-law amendments.

Supervision and Liability: Statutory supervision is optional unless capital reaches ARS 50 million, in which case statutory supervisors or a supervisory committee are mandatory and SA rules generally apply. Partner and manager liability largely follows SA principles, subject to by-law provisions when there are multiple managers.

ARGENTINA

ENTERING THE COUNTRY

Foreign investors generally do not require prior approval to invest in Argentina, except in regulated sectors or under antitrust rules. However, foreign companies acquiring equity must register with the Public Registry of Commerce and comply with reporting obligations.

According to the Argentine Constitution, as a general principle, foreign investors enjoy the same rights as locals, subject to limited restrictions, mainly in broadcasting and in the acquisition of land in border, security, or certain rural areas.

INTELLECTUAL PROPERTY

Section 17 of the Argentine Constitution protects intellectual property by providing that "all authors or inventors are the exclusive owners of their works, inventions or discoveries for the period of time established by law".

Since 1966, Argentina has been a party to the Paris Convention (Lisbon Agreement of 1958). Argentina is a member of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the General Agreement on Trade and Tariffs (GATT) in 1994, the Universal Copyright Convention in 1957 and the Berne Convention in 1999. Argentina has not adhered to the Patent Cooperation Treaty (PCT) or the Madrid Protocol yet.

The following IP rights can be registered:

Trademarks

Scope of protection: Argentina's Trademark Law No. 22,362, as amended by Law No. 27,444, together with its regulatory decree No. 242/2019 ("Trademark Law") allows registration of any sign with distinctive capacity, including words, designs, symbols, images, color combinations applied to specific locations, packaging, alphanumeric combinations, and advertising slogans. Signs that are generic, descriptive, commonly used before filing, or that consist solely of product shapes, natural colors, or a single color applied to a product cannot be registered.

Application: Trademarks applications must be filed with the National Institute of Industrial Property ("INPI").

Duration of protection: Trademark registrations are granted for ten years and can be indefinitely renewed for subsequent ten-year periods provided that the trademark has been used in connection with the sale of a product, the rendering of a service, or as a trade name during the five-year period preceding each expiration date. Renewal of a trademark registration can be filed six months in advance or up to six months after the renewal deadline.

Between the fifth and sixth year of the registration of the trademark, a sworn declaration of use must be filed in connection with which goods or services the trademark has been used.

Costs: The official fee for filing a trademark consisting of up to 20 positions in the specifications of goods/services is ARS 17,680 (approximately USD 21.7 at the exchange rate at the time of writing). The filing of each additional position is charged ARS 200 (approximately USD 0.14 at the exchange rate at the time of writing).

INTELLECTUAL PROPERTY, CONT'D

Patents

Scope of protection: The Patent Law No. 24,481 ("Patent Law"), as amended, provides that patents will be granted for any invention that complies with the requirements of novelty, inventive step and industrial application.

Application: Patents applications must be filed with the INPI.

Duration of protection: Patents protection last 20 years as of the filing date. After this term, the patent will enter the public domain.

Costs: The official fee for filing a patent application of up to 10 claims is ARS 48,000 (approximately USD 34.5 at the exchange rate at the time of writing) for legal entities and ARS 24,000 (approximately USD 17.3) for human persons. The filing of each additional claim will be charged ARS 3,200 (approximately USD 2.3) for legal entities and ARS 1,600 (approximately USD 1.2).

Utility Model

Scope of protection: The Patent Law provides that utility models are also available for any new arrangement or shape of tool, work instrument, utensil, device or object of an industrial nature, provided that it is new and entails an improvement of the way the object works.

Application: Utility models applications must be filed with the INPI.

Duration of protection: Utility models are granted for a non-extendable term of ten years from the date of filing.

Costs: The official fee for filing a utility model application of up to 10 claims is ARS 24,000 (approximately USD 17.3) for legal entities and ARS 12,000 (approximately USD 8.6) for human persons. The filing of each additional claim will be charged ARS 1,600 (approximately USD 1.2) for legal entities and ARS 800 (approximately USD 0.6) for human persons.

Industrial models and designs

Scope of protection: Industrial models or design registrations are granted to protect the new appearance or shape of an industrial product, and which confer it an ornamental character. Single and multiple applications are available. A multiple registration may cover up to 20 different models or designs, provided that all of them belong to the same class.

Application: Industrial models and designs are registered by the INPI without any substantive examination.

Duration of protection: The term of protection is five years from the filing date and can be renewed for two additional five-year terms.

Costs: The official fee for filing a single industrial model or design application is ARS 20,400 (USD 14.7).

INTELLECTUAL PROPERTY, CONT'D

Copyright

Scope of protection: Argentina's Copyright Law No. 11,723 ("Copyright Law") protects the expression of ideas in a wide range of scientific, literary, artistic, and educational works, including software, audiovisual works, music, visual arts, architecture, and data compilations. Copyright arises upon creation; therefore, registration is declarative and serves as rebuttable evidence of authorship, ownership, and date.

The Copyright Law grants authors economic rights (reproduction, performance, adaptation, translation) and moral rights to preserve the work and to decide upon publication, none of which can be waived. The violation of any such rights constitutes a copyright infringement.

Application: Although not mandatory, copyrightable works can be registered with the Copyright Office. The Copyright Office has different registration processes depending on whether the work has been published or remains unpublished.

Artistic, literary and musical works, phonograms, multimedia works, websites, cinematographic works, and software can be registered as published works. Once the registration is made, there is no need for its renewal. Unpublished works are divided into musical works, non-musical works and software. If registered, unpublished works must be renewed every three years, otherwise, the Copyright Office will destroy them.

Lastly, copyright assignment agreements must be recorded with the Copyright Office to be enforceable against third parties.

Duration of protection: Under the Copyright Law, copyright generally lasts for the author's lifetime plus 70 years, calculated from 1 January following the author's death. For joint works, the 70-year term runs from the death of the last surviving author and for works published after the author's death, the term begins on 1 January following the author's death. Different terms apply to certain works, such as photographs and cinematographic works, which are subject to shorter protection periods.

Costs: Application fees for registration of published works can vary between ARS 1,100 to ARS 4,500 (USD 0.8 to USD 3.2 at the exchange rate at the time of writing) plus the applicable legal rate. Application fees for registration of unpublished works can be free and cost up to ARS 1,400 (approximately USD 1). Various other fees may also be required during the copyright application process. A complete list of fees can be found on the Copyright Office website.

Domain Names

Scope of protection: There is no legislation in Argentina dealing specifically with domain names registered under the internet country code top-level domain (ccTLD.ar). However, the Argentine Government has passed Resolution 110/2016 to regulate the domain name registration procedure. Registration of domain names with NIC-Argentina confers the exclusive right of use to the proprietor. Domain names may be subject to dealings such as assignment, liens, and may be challenged by third parties with a legitimate interest, before both NIC-Argentina and the courts.

Application: Domain names are registered with NIC-Argentina.

Duration of protection: Domains are valid for one year and can be renewed annually.

Costs: Application fees for registration of domain names range between ARS 8,500 to ARS 64,000 (USD 6.1 to USD 46).

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Trade Secrets

Scope of protection: The Confidentiality Law No. 24,766 ("Confidentiality Law") establishes that any person may prevent information that is legitimately under their control from being disclosed to third parties or from being acquired or used by third parties without their consent, as long as such information meets the following conditions: (i) it is secret in the sense that it is not, as a whole or in part, known or easily accessible to persons in that area of expertise/practise; (ii) has a commercial value because it is secret; and (iii) the person in its control took reasonable measures to keep it secret.

Moreover, it provides that those persons who, by means of their labour or business relationship, have access to information that may be considered trade secrets or is intended to be kept confidential, must refrain from using and disclosing it without legal basis or the consent of the owner of such information. The breach of this confidentiality obligation constitutes a criminal offense according to Section 156 of the Criminal Code.

Appropriate non-disclosure measures must be implemented to protect such information (i.e., marking information as trade secrets, implementing IT security measures, particularly access restriction, and concluding NDAs).

Duration of protection: The term of duration of protection will last as long as the information meet the conditions set forth in the Confidentiality Law or as long as it was established in the agreement (when applicable).

DATA PROTECTION/PRIVACY

In Argentina, the protection of personal data is governed by Section 43 of the National Constitution, the Personal Data Protection Law No. 25,326 ("DPL"), its Regulatory Decree No. 1558/2001 ("Decree"), Convention 108 for the Protection of Individuals with respect to Automatic Processing of Personal Data (ratified by Law No. 27. 483), its Amending Protocol (approved by Argentine Law No. 27,699), also known as "Convention 108+", which has not yet entered into force, and by the complementary rules issued by the Data Protection Authority, the Agency of Access to Public Information ("DPA") (collectively, the "Data Protection Regime").

In 2003, Argentina was recognized by the European Commission as a country that offers adequate protection for the international transfer of personal data (Commission Decision No. 2003/490/EC), and as of today it maintains that status. Please note that, on January 15, 2024, the European Commission ratified the 2003 Decision and Argentina´s status of adequate country, highlighting especially the evolution of the legal framework in Argentina

The Data Protection Regime foresees certain obligations for data controllers and data processors, as well as certain sanctions in case these obligations are not complied with. Some of these obligations include: (i) Database registration before the DPA; (ii) Having legal basis for the processing of personal data; (iii) Providing data subjects with information included under section 6 of the DPL; (iv) Complying with DPL's guiding principles, such as purpose limitation and data minimization; (v) Complying with the specific provisions regarding data assignments; (vi) Implementing data processing agreements when a data processor is involved according to section 25 of the DPL and the Decree; (vii) Complying with specific provisions on international data transfers; (viii) Ensuring confidentiality and security of personal data by adopting the necessary technical and organizational measures; and (ix) Assuring the exercise of the rights of data subjects. Under the DPL, data subjects are recognized with the rights of access, rectification, updating and suppression of their personal data.

DATA PROTECTION/PRIVACY, CONT'D

Penalties for non-compliance with Data Protection Regime are limited to: (i) warnings; (ii) fines from ARS 1,000 to ARS 100,000; (iii) suspensions; (iv) closure; or (v) cancellation of the database.

Infringements are graded as minor, severe or very severe:

- Minor: For minor infractions, up to 2 warnings and/or a fine of ARS 1,000 to ARS 80,000 (approximately USD 0.72 to USD 57.5 at the exchange rate at the time of writing) may be applied.
- Severe: For severe violations, the sanction to be applied will be up to 4 warnings, suspension from 1 to 30 days and/or a fine of ARS 80,001 to ARS 90,000 (approximately USD 57.5 to USD 64.7 at the exchange rate at the time of writing).
- Very severe: For very severe infractions, up to 6 warnings, suspension of 31 to 365 days, closure, or cancellation of the database and/or a fine of ARS 90,001 to ARS 100,000 (approximately USD 64.7 to USD 71.9 at the exchange rate at the time of writing) will be applied.

DPA's Resolution No. 126/2024 limits the fines applicable to several violations included in the same administrative procedure to the total amount of the fine for such conducts equivalent to the maximum of the corresponding scale according to the grade of the infringements committed (i.e., moderate, severe and very severe), multiplied by five hundred (500).

On the other hand, the DPA maintains a public registry of individuals and legal entities that have been sanctioned for violating the DPL.

In addition to the sanctions that may be imposed by the DPA, there may be claims for damages by data subjects and/or administrative fines based on the general principles of civil liability established in the CCCN (as well as consumer regulations in certain cases), including through class actions.

Lastly, Argentina and the United States recently signed the Agreement on Reciprocal Trade and Investment (the "Agreement"), a bilateral instrument that includes a specific chapter on digital trade and technology. Under this agreement, Argentina committed to facilitating international data transfers by recognizing the United States as providing an adequate level of protection under the criteria of the Data Protection Authority. Argentina also undertook to seek participation in international privacy cooperation frameworks promoting cross-border data protection interoperability and enforcement cooperation.

ARTIFICIAL INTELLIGENCE

Argentina has no specific national regulatory regime for Artificial Intelligence (AI). Instead, general laws on torts, contracts, intellectual property, consumer protection, and data protection may apply. Argentina is a member of the Global Partnership on Artificial Intelligence and has promoted AI use in the public sector at national and provincial levels.

Recent measures focus mainly on data protection, transparency, risk assessments, and ethical use of AI. These include DPA rules on automated decision-making, explanations of algorithmic logic, and data protection impact assessments; alignment with Convention 108+ principles; and incentives under the Knowledge Economy Promotion Regime for AI and related technologies. Additional initiatives include ethical AI guidelines for the public sector, a DPA program on transparency and data protection in AI use, and the creation of an inter-ministerial AI roundtable to coordinate policy and risk assessment.

ARTIFICIAL INTELLIGENCE, CONT'D

Judicial authorities have also adopted protocols on the acceptable use of generative AI to modernize court services while safeguarding confidentiality and data security. Overall, Argentina's approach remains sectoral and non-binding for the private sector, broadly aligned with UNESCO and OECD recommendations, and reflects an early-stage, principles-based integration of AI into public policy.

EMPLOYEES/CONTRACTORS

On a preliminary basis, we must point out that from a practical perspective it is not materially possible for a foreign entity to hire and properly register employees without establishing a local company.
In this regard, for full compliance with local labor regulations, after establishing a local entity the company must be registered as employer before the tax and labor authority, at which time it may begin to hire and duly register employees. The employees' registration process is also performed before the tax authority through an online system.

The most elementary obligations for the employer once the employee has been hired and registered are the: payment and registration of the salaries before the tax/social security authority, acting as withholding agent and payment of social security withholdings and contributions and income tax, hiring of a labor risk insurer (mandatory in order to cover employees from eventual labor illnesses or accidents), among others.

In terms of labor conditions and talent retention, due to a high inflationary context, the payment of salaries in foreign currency (mostly united states dollars) was a widely used resource for such purposes. Considering that the dollar generally increased its value even more than inflation in previous years, the payment in foreign currency, as mentioned, was a common approach to maintain salary levels in a high inflationary context. However, within the last year, foreign exchange restrictions were eliminated and the currency rate (ARS = USD) increased only 41%, therefore, many companies are reviewing this payment method (although still attractive for employees). In addition, employers are also implementing other benefits, such as offering discount vouchers or credits in electronic wallets, however, it is strongly advisable to analyze them in particular, since, depending on how they are implemented, they might be considered as salary, and should be registered as such to avoid labor, administrative, tax and social security contingencies.

In Argentina, the rule is the hiring through indefinite term contracts, being -for example- the fixed-term and temporary ones, exceptions to the general rule. There is no legal obligation to execute a written employment agreement, and -in fact- it is not a typical market practice the written format.

Referring to termination of employment, the dismissal without cause triggers payment of a severance compensation calculated by considering tenure and salary. Other types of terminations are also admissible, subject to different formal and material requirements.

As regards to the hiring of contractors, it is a totally valid and legal alternative. Nevertheless, this figure should not be used in replacement to the proper registration of employees. In this regard, provided that typical features of an employment are met, the relationship with the contractor may be reclassified as a labor relationship.

By way of illustration, typical features of an employment (pursuant to case law and scholars) are: subordination to a specific working time, correlative invoicing, provision of corporate emails, subordination to tasks and instructions, among others.
Upon misclassification claim, several contingencies could be triggered (e.g., claims for salary and severance compensation differences, claims for the lack of payment of tax and social security withholdings and contributions, labor administrative claims, among others). It is always advisable to analyze the hiring of contractors in particular.

EMPLOYEES/CONTRACTORS, CONT'D

Upon misclassification claim, several contingencies could be triggered (e.g., claims for salary and severance compensation differences, claims for the lack of payment of tax and social security withholdings and contributions, labor administrative claims, among others). It is always advisable to analyze the hiring of contractors in particular.

However, it is worth mentioning that, as per enactment of Law 27,742, among several other labor modifications, the labor fines and penalties for lack or deficient registration of employees have been eliminated. These fines duplicated or even triplicated severance payments in misclassification claims, consequently, we must point out that: (i) the potential contingency is significantly lower than prior to the labor reform; and (ii) an eventual claim becomes less attractive and likely to occur. Although we have observed that, in lieu of such penalties, claims for damages have been filed under general civil law, based on the lack of employment registration (including damages arising from the inability to make contributions to a health insurance provider, thereby preventing medical coverage, among other issues). Likewise, these claims for damages have been upheld in certain rulings issued by First Instance Labor Courts of the City of Buenos Aires, awarding amounts similar to those that would have applied had the repealed labor penalties remained in force. Notwithstanding the foregoing, it remains to be determined whether this trend will continue to be replicated in higher courts. In addition, other modifications introduced by the above-mentioned law have reduced (not eliminated) risks related to misclassification claims (e.g. modifying/relativizing presumptions in favor of the existence of employment upon provision of services).

Finally, in terms of work for hire regime, the Labor Contract Law No. 20,744 and the Copyright Law specifically establish that:

- The employee's personal inventions or discoveries are his/her property, even if he/she has used instruments that do not belong to him/her.
- Inventions or discoveries derived from the industrial procedures, methods or facilities of the establishment or from experimentations, research, improvements or refinement of those already employed, are the property of the employer.
- The inventions or discoveries, formulas, designs, materials and combinations obtained after the employee has been hired for such purpose are also his/her property.

Any software developed by employees belongs to the employer, without the need of executing an assignment, if employees were specifically hired to develop such software (and did so while performing their work duties).

CONSUMER PROTECTION

The Argentine consumer protection regime is mainly governed by the Consumer Protection Law No. 24,240 ("CPL") and its Regulatory Decree 1798/1994; and the CCCN. There is also complimentary regulation on e-commerce. Companies will be considered suppliers and will have to comply with this bundle of regulation whenever they offer products or services to consumers. Consumers are natural persons or legal entities that acquire products or services for their own use (or their family's or social group's). So, this legal framework will be applicable to every consumer with the intent to acquire a product or service for any consumer use and as end user (i.e., one that does not involve re-introducing it into the market). Consumers are also protected by the fair-trade laws on labelling and advertising of products.

Argentine regulation will apply to products or service offered to consumers in Argentina, whether offered in the country or from abroad.

CONSUMER PROTECTION, CONT'D

Law protects consumers with a paternalistic approach throughout the different contractual phases of a purchase, from advertising to the delivery of goods (including used goods) or performance of services. While the law provides for some clear rules (e.g., duty to inform; abusive clauses; mandatory warranty; strict liability; cooling-off period for online transactions; among others) those rules will be applied with a pro-consumer approach that provides that whenever there is doubt, the situation will be interpreted in the most favorable way to consumers.

- Generic duty to inform consumers: There is a generic duty to inform consumers. Suppliers must provide consumers with truthful, objective, and adequate information, which must be detailed, efficacious and to the point on the essential features of the goods and services supplied, and their marketing conditions. Suppliers must comply with labelling and packaging requirements, providing information to consumers at the time products are introduced into the market. Additionally, those suppliers who become aware that a product is dangerous after introducing it into the market must immediately inform this fact to the competent authorities and to consumers through adequate publications and, eventually, conduct corrective actions.
- Information must be delivered in Spanish: The font size must be larger than 2 millimeters. In the digital environment, characters size should not be below 2% of the screen irrespective of the device used, and, if applicable, with a minimum of 3 seconds of permanence on it. Some mandatory information, labels and buttons should be available in supplier's websites or apps.
- Cooling-off period: Consumers are entitled to revoke purchases and subscriptions (and any other acceptance to an offer made online) because of a mandatory 10-day cooling-off period. The period begins to run when the contract is agreed, or the good/service is delivered (whichever happens last). Any clause stating that consumers waive their right will be considered null and void and sanctions may apply. If the contract is revoked, both parties will be free of their obligations and must return what they received because of the agreement. There are only a few express exceptions to the right to revoke that applies to some products which, due to their own very nature, cannot be returned: personalized products (made following the consumer's own requests); music and video, records, software, databases, and -in general- products delivered in an electronic format that can be downloaded and used by the consumer immediately and permanently; and periodic press subscription like newspaper and magazines.
- Joint and Several Liability: The product liability regime provides that any entity in the supply chain including the producer, manufacturer, importer, distributor, supplier, seller and whoever placed its brand on the product can be held liable for a defective product or service. Products must be supplied or rendered in a way that their use under regular conditions does not present a danger to consumers' health. Those products or services that may pose a risk to consumer's health must be sold according to the applicable rules (or reasonable rules if there are no such applicable regulations), mechanisms and instructions to ensure safety. The consumer and successive purchasers are entitled to a legal warranty affording protection against the defects or faults of any kind whatsoever. The whole supply chain is jointly and severally liable for granting and complying with a legal warranty.
- Advertising: Advertising is considered part of the binding offer to consumers. Advertising must not: (a) contain false indications that could mislead the consumer regarding the essential elements of the product or service; (b) use comparative advertising that could mislead consumers; or (c) be abusive, discriminatory, or induct consumers to behave in a harmful or dangerous way.
- Enforcement: Since Argentina is a federal country, there is a federal consumer protection authority, coexisting with provincial and municipal ones. The relevant authorities actively enforce the consumer protection regime by reviewing consumer contracts, prosecuting administrative proceedings, and imposing sanctions in the event of violations. Further, individual consumers, consumer protection NGO's, the Ombudsman or the Public Prosecutor have broadly standing to sue for pursuing class actions and claiming for punitive damages. Consumers are granted the right to file claims in forma pauperis which entails a waive in payment of not only court taxes but also costs and any other fees associated with the proceedings.

ARGENTINA

TERMS OF SERVICE

Under Argentine law, the enforceability of online Terms of Service ("ToS") depends largely on whether the relationship qualifies as a consumer relationship (B2C). In B2C scenarios, ToS (as well as privacy policies) are generally considered contracts of adhesion and are subject to strict consumer-protection standards. In B2B relationships, the consumer regime will typically not apply, although the CCCN rules on adhesion contracts may still be relevant.

For consumer-facing services, ToS must be clear, complete, self-sufficient, and easily legible, and must be made available in Spanish to consumers in Argentina. The terms should be easily accessible and allow the consumer to read, save and/or store them in a way that permits keeping an unalterable copy; in practice, a copy of the ToS should remain available on the website.

Adhesion contracts must be self-sufficient. The CCCN restricts reliance on simple referrals to external documents; provisions that depend on documents merely referenced (e.g., "another policy") may be deemed non-binding. Accordingly, essential contractual content should be included in the ToS itself or presented together with it before acceptance, in a manner that preserves self-sufficiency.

Any ambiguity is construed in favor of the consumer and against the drafting party. Certain clauses may be deemed "not agreed" or abusive, even if accepted, including clauses that (i) distort the supplier's obligations or improperly limit liability; (ii) waive or restrict consumer rights or expand the supplier's rights beyond supplementary rules; or (iii) due to their content, wording, or presentation, are not reasonably foreseeable.

Clauses on choice of foreign law or forum, mandatory arbitration, early waivers, or waivers of collective actions are particularly vulnerable to challenge in consumer contracts. The abusive-clauses regime allows consumers to seek compensation and punitive damages, individually or through collective actions.

For online consumer contracts, suppliers must comply with consumer e-commerce duties of information and transparency. To be enforceable, ToS (and the contracting flow) should clearly and prominently disclose, before confirmation, at least the following: (i) the characteristics of the product or service; (ii) availability, transaction conditions, and any restrictions or limitations; (iii) delivery method, timing, conditions, and allocation of responsibility; (iv) cancellation procedures and full access to the ToS prior to confirmation; (v) return, exchange and/or refund policies, including terms, requirements, and costs; (vi) price, currency, payment methods, final amount, freight, and any additional charges (expressly stating whether import taxes are included or not); (vii) warnings about relevant risks; (viii) the procedure for modifying the contract, if modifications are permitted; and (ix) acceptance, evidence, and changes in the ToS.

It is highly advisable to obtain prior, express, and informed consent and to keep reliable records of acceptance. Click-wrap mechanisms are commonly treated as unsigned private instruments; their evidentiary value depends on the reliability of the support and procedure, so robust practices strengthen enforceability. Silence should not be treated as consent.

If ToS are amended, users should be notified, and for substantial changes the provider should request consent through a method that allows proof; otherwise, the amended clause may be challenged as not opposable in a consumer context.

TAX/FUNDING

Please find below the main Argentine tax considerations for investors:

Taxation Overview

Taxation on Argentine Start-ups

Argentine start-ups are typically organized as corporations (Sociedad Anónima) or limited liability companies (Sociedad de Responsabilidad Limitada). As a general principle, both types of companies are subject to the same tax treatment, being the following the most relevant taxes:

- **Corporate Income Tax:** Argentine companies are subject to their annual worldwide net income at a rate ranging from 25% to 35%. Losses incurred during any fiscal year may be carried forward and offset against taxable income obtained during the following five fiscal years.
- **Withholding Tax on Dividends:** Dividends and profits paid by Argentine companies to non-Argentine residents or Argentine residents individuals are subject to a withholding tax rate of 7%. Dividends and profits paid by Argentine companies to Argentine companies are not subject to withholding.
- **Personal Assets Tax:** The ownership of shares and other equity participations in Argentine companies by a foreign investor is subject to a personal assets tax, which is paid on an annual basis by the local company itself, at the rate of 0.50% on the company's net worth.
- **VAT:** VAT applies to the sale of goods, the provision of services, and the importation of goods and services into Argentina. The general VAT rate is 21%. In certain cases, a reduced rate of 10.5% may apply.
- **Tax on Credits and Debits in Bank Accounts:** Debits and credits from and to Argentine bank accounts are subject to this tax at the rate of 0.6% on each credit or debit. An increased rate of 1.2% applies in cases in which there has been a substitution for the use of a bank account. At least 33% of the tax paid can be computed as a credit against Corporate Income Tax.
- **Turnover Tax:** Turnover tax is a local tax levied on gross income (revenue) resulting from business activities carried out within any of the twenty-three (23) Argentine provinces and the City of Buenos Aires. Each of the provinces and the City of Buenos Aires apply different tax rates to different activities and provide different tax exemptions. The average rate is 4%.

Taxation on Foreign Beneficiaries

Non-Argentine residents and legal entities without a permanent establishment in Argentina ("Foreign Beneficiaries") are taxed only on their Argentine-source income, through a withholding which the Argentine payer is responsible for. Income will be deemed to be of Argentine source when it derives from assets located, placed or used in Argentina, or from the performance of any act or activity in Argentina that produces an economic benefit, or from events occurring in Argentina. Notwithstanding this general rule, there are certain specific activities subject to taxation, such as international transport, telecommunications and "technical assistance" services rendered from abroad, even though, under the general rule, a service performed from abroad is deemed to be a foreign-source income.

Capital Gains Tax on Foreign Beneficiaries

Income derived from the sale, exchange or other disposition of shares, securities representing shares and certificates of deposit of shares and any type of corporate participations of an Argentine company by Foreign Beneficiaries is subject to capital gains tax, at the following tax rates: 15% on the net gain or 13.5% on the gross amount of the transaction, at the option of the seller. However, if the seller is located in a non-cooperative jurisdiction, the applicable tax is 31.5% on the gross amount of the transaction. Please note that a non-cooperative jurisdiction is defined as any jurisdiction that: (i) has not signed an information exchange agreement with Argentina; (ii) has not signed a Double Taxation Treaty with Argentina, which includes a broad clause for exchange of information; or (iii) has signed either an agreement or convention but does not comply with its obligation to share information with Argentina. The list of non-cooperative jurisdictions can be verified in this link.

The sale of shares listed in stock markets is exempt from capital gains tax, unless the foreign beneficiary is located in a non-cooperative jurisdiction.

TAX/FUNDING, CONT'D

Tax Treaties

Argentina is a party to certain Conventions for the Avoidance of Double Taxation which may eliminate taxation or reduce the rates of domestic withholding taxes. In general, these treaties are based on the OECD model. The conventions signed by Argentina can be verified in this link.

Fundings/Subsidies

In Argentina, there are a variety of funding and tax incentive programs which may be applicable to a startup (as well as companies at later stages). As taxation is handled at both the federal and provincial levels, different programs may be available depending on the jurisdiction in which the startup operates.

At federal level, some of the most relevant tax incentive programs are:

- **Micro, small and medium-sized enterprises (MSMEs) special tax regime:** MSMEs registered as such with the Argentine tax authority are eligible to certain tax benefits, such as VAT deferrals, possibility of computing 100% of the Tax on credits and debits in bank accounts as a payment on account of income tax, lower rates in social security contributions, special financing plans, among others. Further details can be found at this link.
- **Knowledge Economy Promotional Regime ("KE Regime")**: IT Companies and companies engaged in the performance of activities associated with the knowledge economy can apply to the Knowledge Economy Promotional Regime (the "KE Regime"), which is a very popular tax incentive program among Argentine companies in these fields (either start-ups or not). Beneficiaries to this program enjoy a significant reduction of their corporate income tax rate (60% for micro and small enterprises, 40% for medium-sized enterprises, and 20% for large enterprises), and a tax credit bonds of up to 70% of the paid social security contributions to cancel other federal taxes, among other benefits. In addition, the KE Regime promotes many activities, among others: software, computer and digital services; audiovisual production and post-production; biotechnology, neurotechnology and genetic engineering; geological and prospecting services and others related with electronic and communications; professional services as long as they are exported; nanotechnology and nanoscience; aerospace and satellite industry; nuclear industrial engineering; artificial intelligence, robotic and industrial internet, the internet of things, augmented and virtual reality. Further details can be found at this link.
- **Biotech and Nanotech Promotional Regime:** The Biotech and Nanotech Promotional Regime is directed to companies located in Argentina that are working in: (a) R&D projects based on the application of modern biotechnology/nanotechnology or (b) projects that apply modern biotechnology/nanotechnology for manufacturing goods, performing services or improving existing procedures or products. The regime provides certain tax benefits for the development of the project such as: (a) VAT reimbursements; (b) accelerated depreciation of capital goods affected to the promoted project, and (c) the granting of tax credit bonds which can be used for paying advances and/ or balances of other federal taxes, among others. Further details can be found at this link.

Fundings/Subsidies, cont'd

- **Large Investments Incentive Regime ("RIGI"):** the RIGI is a promotional regime currently in force in Argentina that applies to qualifying large-scale investments in strategic areas, including forestry, tourism, infrastructure, mining, iron and steel industry, technology, energy, and oil & gas project. To adhere to the RIGI, investors must establish a "Sole Purpose Vehicle" ("SPV"), whose sole purpose is to carry out the approved project. Under the RIGI, SPV may obtain certain tax benefits: (a) Income tax: the SPV will be subject to a reduced income tax rate of 25% (and the progressive scale of income tax law will not apply) and may choose to apply an accelerated amortization mechanism. Furthermore, SPV's losses may be carried forward and deducted from taxable profits obtained in the following years, not subject to a time limit. Regarding the distribution of dividends, after seven years of having adhered to the RIGI, when the SPV dividends are distributed, they will be subject to a 3.5% tax rate (instead of 7% withholding rate currently applicable); (b) VAT: VAT on investments may be paid by the SPV to their suppliers or to National Tax Authorities through the issuance of tax credit certificates. Suppliers will consider the favorable VAT balance resulting from applying the tax credit certificates; (c) Tax on debits and credits in bank accounts: the SPV may compute 100% of amounts paid as a credit against income tax; (d) Custom duties: the SPV may be exempted from import duties on capital goods, parts and inputs necessary for the approved project and, in certain cases, eligible exports may receive exemptions; e) Tax stability: the SPV may benefit from long-term stability in tax, custom and foreign exchange matters.

  Such benefits will apply to projects submitted to the Enforcement Authority as of June 2026. Please note that the Executive Branch may extend this deadline for an additional year.

WHAT ELSE?

From a labor standpoint, please note that the Executive Branch has submitted to Congress a legislative bill proposing a comprehensive labor reform, which includes: (i) amendments to the Labor Contract Law; (ii) reforms to labor litigation, including procedural reforms and modifications to legal fees; (iii) collective matters (e.g., collective bargaining and protection of essential services); and (iv) other relevant modifications to labor individual matters (e.g., termination of employment contract, working hours, wages, leaves, among others).

However, it should be considered that such legislative bill could be modified in either of its provisions during the legislative process prior to its enactment. Additionally, Congress may ultimately reject the bill.

From a consumer protection perspective, since President Javier Milei took office in December 2023, Argentina's consumer protection framework has undergone an important shift toward deregulation, administrative simplification, and reduced state intervention. Through Emergency Decree 70/2023 and subsequent administrative measures, the government repealed key instruments such as the Supply Law, the Price Observatory, and multiple sector-specific consumer regulations, dismantling price-control schemes, information-reporting obligations, and other market-intervention tools. These changes reflect a pro-market policy orientation aimed at lowering compliance costs, reducing overlapping regulations, and relying more heavily on supply-and-demand dynamics, although their full impact on judicial interpretation and enforcement has yet to be consolidated.

While core consumer rights (mainly National Constitution, CPL and CCCN) remain in force, enforcement mechanisms and administrative burdens have been streamlined. In this context, foreign entities entering the Argentine market should expect a less interventionist regulatory environment at the administrative level, but not the elimination of consumer protection risks: contractual terms, transparency duties, and abusive-clause controls continue to apply, and consumer disputes are now primarily channeled through provincial and local authorities following the dissolution of the national pre-conciliation system (COPREC). Overall, the current regulatory trend favors legal clarity and market freedom, while maintaining baseline consumer safeguards, pending further judicial developments.



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AUSTRALIA

LEGAL FOUNDATIONS

Australia follows the common law, inherited from the United Kingdom. The legal system was established by the Australian Constitution in 1901 and is a federal system with laws enacted at both the Federal and State level.

The federal government, also known as "the Commonwealth", has exclusive law-making powers in relation to certain areas such as defence, telecommunications, banking, insurance, bankruptcy and foreign corporations.

However, there are also certain non-exclusive powers that are shared between the Commonwealth and State governments commonly referred to as "concurrent powers". At the State level, there are six state governments (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia) and two territory governments (the Australian Capital Territory and the Northern Territory).

In the event of an inconsistency between Federal and State laws, the Federal law prevails to the extent of the inconsistency.

CORPORATE STRUCTURES

Common corporate structures in Australia include the following:

Proprietary Company

The most common business entity structure in Australia is the proprietary company (i.e. a private company). Registration of a proprietary company is governed at the Federal level under the Corporations Act 2001 (Cth) (**Corporations Act**).

To register as a proprietary company, a company must be:

- limited by shares or be an unlimited company with share capital;
- have at least one shareholder; and
- have no more than 50 non-employee shareholders.

The Corporations Act also distinguishes between "small" and "large" proprietary companies, with small proprietary companies subject to reduced financial reporting obligations under the Act, as compared to large proprietary companies.

CORPORATE STRUCTURES, CONT'D

Partnerships

A "partnership" is defined as an arrangement between "persons carrying on a business in common with a view to share profits" and is governed by state and territory legislation.

There are three common types of partnerships:

General partnership – where all partners are equally responsible for the management of the business, and each has unlimited liability for the debts and obligations it may incur.

Limited partnership – where the liability of general partners is limited to the amount of money they have contributed to the partnership. Limited partners are usually passive investors who do not play any role in the day-to-day management of the business.

Incorporated Limited Partnership – where one general partner has unlimited liability but the other partners have limited liability for the debts of the business.

The advantages of a partnership are that they are relatively easy to establish, have minimal reporting requirements, allow for equal / shared control by all partners over the business and are not required to pay tax on the partnership's income (i.e. each individual partner pays tax on their share of the net business income they receive).

Sole Proprietorship

A sole proprietorship, also referred to as a sole trader, is a common choice of business structure that is relatively easy and inexpensive to set up. An individual who sets up as a sole trader is legally responsible for all aspects of their business including any debts and losses, and day-to-day business decisions.

ENTERING THE COUNTRY

The primary legislation governing foreign investment in Australia is the Foreign Acquisitions and Takeovers Act 1975 (**FATA**). The foreign investment regime is administered by the Foreign Investment Review Board (**FIRB**) and regulates both direct and indirect acquisitions of interests in Australian entities and land.

Under the FATA, a 'foreign person' includes:

- a foreign corporation;
- a foreign government and foreign government investor;
- a company or trustee where a foreign person holds at least 20% of the shares or units; and
- a company or trustee where two or more foreign persons hold at least 40% of the shares or units.

Whether a proposed transaction by a foreign person requires foreign investment approval from the Treasurer will depend on the identity of the investor, the type of investment, whether the investment is likely to raise national security concerns, the industry sector and the value of the proposed investment. To seek approval, an application which describes the proposed transaction in detail must be prepared and submitted to FIRB through an online portal.

While FIRB receives and examines foreign investment approval applications, the Treasurer is the ultimate decision-maker and has the power to approve or block foreign investment transactions that it considers are contrary to Australia's national interest or national security. Failure to notify the Treasurer prior to entering into an agreement to acquire these interests is an offence punishable by fines and, in the case of individuals, imprisonment.

Examples of proposed transactions by foreign persons that require foreign investment approval by the Treasurer include acquisitions of:

- a substantial interest (generally at least 20%) in an Australian entity (that is valued above the relevant monetary threshold);
- a direct interest (generally at least 10%) in a national security business or starting a national security business, regardless of the value of the business; and
- a direct interest in an Australian media business, or an agribusiness where the value of the foreign person's holding in the agribusiness is more than the relevant monetary threshold.

AUSTRALIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

IP Australia is the government agency that administers intellectual property (IP) rights in Australia. This is a federal government agency and Australia's intellectual property laws generally operate across the entire country.

The following IP rights can be registered:

Patents

What is protectable? Any product, method or process that is new, inventive, useful and is a "suitable subject matter" (i.e. "manner of manufacture") is protectable under the Patents Act 1990 (Cth). In some cases, patents may be granted for computer-related inventions, medical devices, biological techniques and genetically modified microorganisms.

Where to apply? Patent registrations may be filed online on IP Australia's website.

Duration of protection? 20 years' protection for standard patents from the original filing date. Patents covering certain pharmaceuticals can in certain circumstances can be extended for up to 25 years.

Costs? Obtaining a standard patent in Australia can take between six months (if expedited) and otherwise about 2 years. Government fees are a minimum of AUD$100 for a provisional patent and AUD$400 for a standard application. Complete protection through a standard patent application may cost tens of thousands of dollars in professional fees.

Designs

What is protectable? A design is defined as "the overall appearance of the product resulting from one or more visual features of the product" and is protectable under the Designs Act 2003 (Cth).

Where to apply? Design registrations can be filed online with IP Australia for protection within Australia. A design application proceeds to registration without substantive examination. Seeking post registration examination is optional. However, a design registration is only enforceable once it has been certified (i.e. post examination).

Duration of protection? Maximum of 10 years from the date of registration, with renewal possible after 5 years.

Costs? Registering a design in Australia takes at least two months and costs a minimum of AUD$200, not including professional fees.

Trademarks

What is protectable? A sign used, or intended to be used, to distinguish goods or services provided by a person from those provided by any other person is protectable under the Trade Marks Act 1995 (Cth). Trade marks may take the form of a logo, phrase, word, letter, colour, sound, smell, picture, movement, an aspect of packaging or any combination of those forms.

Where to apply? Trademarks can be filed online with IP Australia for protection within Australia and with the World Intellectual Property Organization, under the Madrid System, depending on the territories in which trademark protection is sought outside of Australia.

Duration of protection? 10 years' protection from the filing date, but trade mark protection can be renewed indefinitely.

Costs? Registering a trademark in Australia takes at least eight months and costs a minimum of AUD$400 in government fees for one mark in one class, not including professional fees. Professional fees are in addition. The overall costs depend on how many classes of goods and services are listed in your application.

Plant Breeder's Rights

What is protectable? Exclusive commercial rights may be granted over a new plant variety under the Plant Breeder's Rights Act 1994 (Cth). For a plant variety to be eligible for protection, it must be a product of a selective breeding process, new or recently exploited and distinct, uniform and stable.

Where to apply? Registrations can be filed online with IP Australia for protection within Australia.

Duration of protection? 20 years for most plant species, 25 years for trees and for certain vines.

Costs? Registering a plant breeder's right takes approximately two and a half years. The costs for filing an application for grant of plant breeder's rights costs AUD$400, not including professional fees.

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? Original literary, dramatic, musical, and artistic works, and recordings, films, and broadcasts are protected under the Copyright Act 1968 (Cth). Copyright protection is granted immediately upon the creation of a work assuming the formalities are met (such as originality) — registration is not possible.

Duration of protection? If the identity of an author is not known, copyright in the work subsists for 70 years after the work was first made public or, if the work was not made public, 70 years after the work was created. Otherwise, generally speaking (but with a few limited exceptions such as for television and sound broadcasts), copyright subsists for 70 years after the death of the author of the work. The rights granted to an owner of copyright includes the exclusive rights to use, reproduce, publish, and distribute their work, and moral rights.

Trade Secrets

What is protectable? Trade secrets cannot be registered for protection in Australia but can be protected as a form of confidential information in other ways including in equity (through an action of a breach of confidence) or as a contractual right in, for example, an employment contract with a restraint of trade clause or a non-disclosure agreement.

Duration of protection? Trade secrets are protected as long as the relevant information remains a secret from the general public.

DATA PROTECTION/PRIVACY

The Privacy Act 1988 (Cth) (**Privacy Act**) is the primary legislation that regulates the handling of individuals' personal information in Australia. The Privacy Act applies to Australian government agencies and organisations (in general with an annual turnover greater than AUD$3 million but subject to some exceptions).

An "organisation" includes individuals, body corporates, partnerships and trusts, but excludes certain entities including registered political parties and some small businesses. A small business with an annual turnover of AUD$3 million or less may still be subject to the Privacy Act, such as private sector health service providers, credit reporting bodies and businesses that sell or purchase personal information.

The Privacy Act sets out 13 "Australian Privacy Principles" (**APPs**), which are principles-based laws that govern standards, rights and obligations in relation to:

- the collection, use and disclosure of personal information;
- an organisation or agency's governance and accountability;
- the integrity and correction of personal information; and
- the rights of individuals to access their personal information.

Some of the requirements set out by the APPs include that any entity:

- can only use or disclose personal information for a purpose for which it was collected (known as the "primary purpose"), or for a secondary purpose if an exception applies (APP 6);
- must take reasonable steps to protect personal information it holds from misuse, interference and loss, as well as unauthorised access, modification or disclosure (APP 11); and
- must take reasonable steps to ensure that any overseas recipient of personal information does not breach the APPs in relation to the information (APP 8).

The Privacy Act also establishes a Notifiable Data Breaches scheme, which requires an organisation subject to the Privacy Act:

- if it has reasonable grounds to suspect it has experienced an "eligible data breach", to take steps to complete an investigation within 30 days; and,
- if it has reasonable grounds to believe it has suffered an eligible data breach, to notify affected individuals and the regulator (i.e. the Office of the Australian Information Commissioner) as soon as practicable.

In 2019, the Federal Government committed to a review of the Privacy Act, which was completed in February 2023. Since the beginning of the review, a number of reforms have been enacted, including:
the increase of the maximum penalty for serious or repeated interferences with privacy from AUD$2.2 million to the greater of (i) AUD$50 million; (ii) three times the value of benefits obtained or attributable to the breach (if quantifiable); and (iii) 30% of the corporation's "adjusted turnover" during the "breach turnover period;"

- a new cause of action in tort for serious invasions of privacy;
- the criminialisation of 'doxxing' (i.e., publishing personal information in a way that is considered menacing or harassing);
- new civil penalty provisions for less serious interferences with privacy; and,
- a requirement for the regulator to develop a Children's Online Privacy Code.

Further and more substantial proposed reforms, such as amending the definition of "personal information" and removing the small business exception (both of which would create further alignment between the Australian regime and the GDPR regime), are expected to be introduced into parliament in 2026.

AUSTRALIA

ARTIFICIAL INTELLIGENCE

AI Regulation

Currently, there are no laws that apply specifically or exclusively to the use of AI, including generative AI, in Australia. However, AI regulation has been an area of focus for the Federal Government with the release of several AI-related papers and publications in recent years.

Guidance for AI Adoption

In 2025, the Australian Government released its "Guidance for AI Adoption" which replaced its previous guidance "AI Ethics Principles" and its "Voluntary AI Safety Standard". The Guidance for AI Adoption contains six essential principles for responsible AI governance and adoption. Compliance with this guidance is voluntary, but helps to establish appropriate internal governance structures, measure and manage AI-specific risks and implement robust data and cybersecurity measures.

There are two versions of the guidance – the "Foundations" guidance for organisations starting to adopt AI and the "Implementation Practices" for governance professionals and technical experts. The guidance is available here.

OTHER APPLICABLE LAWS

More generally, there are several other laws with more general application that may apply to the use of AI in Australia.

Privacy

In 2024, the Office of the Australian Information Commissioner published two pieces of guidance to provide clarity around privacy compliance in the context of (i) the use of commercially available AI products and (ii) the development and training generative AI models. Some of the key takeaways from the guidance include the following:

- privacy obligations apply to AI inputs and outputs;
- AI-generated or inferred personal information must comply with privacy collection requirements; and
- personal information input into an AI system can only be used or disclosed for the primary purpose for which it was collected (unless consent is obtained, or a permitted secondary use can be established).

In respect of automated decision-making (which may be used in AI applications), a new obligation will come into effect in December 2026, requiring that privacy policies must set out the types of personal information that will be used in automated decisions which have a legal or similarly significant effect on an individual's rights.

Another proposed reform is for the collection, use and disclosure of personal information to be "fair and reasonable" in the circumstances, which may impact the processing of information by certain AI products.

Copyright

As noted above, Australian copyright law protects original literary, dramatic, musical, and artistic works, and recordings, films, and broadcasts. The use of AI may carry with it the risk of copyright infringement where, for example, the generated output constitutes a substantial part of existing material in which copyright subsists.

OTHER APPLICABLE LAWS, CONT'D

Consumer Protection

As set out in further detail in the "Consumer Protection" section below, Australia has a robust consumer law regime, which may apply to products or services supplied to Australian consumers which incorporate or use AI. For example, claims on the basis of "misleading and deceptive conduct" or the application of consumer guarantees (e.g. that goods and services are of acceptable quality and fit for a particular purpose) under consumer laws may apply to AI-based products or services in certain circumstances.

Online Safety

Australia's online safety regime consists of various legislative instruments including the Online Safety Act 2021 (Cth) (**OSA**), the Basic Online Safety Expectations Determination 2022 (Cth) (**BOSE**) and various industry codes and standards which apply depending on the type of online service provided.

Generally, the OSA imposes obligations on all specified online service providers to have systems and processes in place to prevent the distribution and availability of unlawful or harmful material such as intimate images and cyber-bullying material (which may be generated by or involve the use of AI).

The BOSE contains a number of expectations imposed on online service providers including the expectation that providers will take reasonable steps to consider end-user safety and incorporate safety measures in the design, implementation and maintenance of generative artificial intelligence capabilities in its services.
In addition, there are different industry codes and standards that apply to specific kinds of online service providers (e.g. providers of social media services, services which allow end-users to access material via the internet, internet search engines and hosting services). These codes and standards provide more granular technical and legal measures to reduce the risk of harms arising through the use of online services.

The Federal Government has stated that it will be focusing on proposals to strengthen offences related to sharing of non-consensual and sexually explicit deep fakes.

EMPLOYEES/CONTRACTORS

Overview

Employment and workplace relations in Australia are governed by a range of federal and state/territory laws. Terms and conditions of employment in Australia are primarily governed at the federal level by the Fair Work Act 2009 (Cth) (**FW Act**). However, certain employment-related matters continue to be regulated at the state and territory level.

Employees and Contractors

Australian law recognises a distinction between 'employees' and 'independent contractors'. At a conceptual level, the distinction is between those who work as part of another's enterprise or business, and those who are self-employed and engaging in their own business as 'freelancers'.

Employees enjoy a broad range of minimum entitlements and protections, including minimum wages, under the workplace relations system established by the FW Act. The FW Act also entitles employees to paid leave, public holidays, minimum notice of termination, redundancy pay, dismissal protections and industrial protections (such as collective bargaining rights). Independent contractors, by contrast, are not generally entitled to these benefits.

What is the Difference Between an Employee and an Independent Contractor?

To assess whether a worker is an employee, a court or tribunal will analyse the relationship and look for 'indicia' (or indicators) of an employment relationship. Given the absence of any universally accepted understanding of how many indicia (or what combination of indicia) must be present before a relationship can be characterised as one of employment, the legal test is necessarily impressionistic and somewhat unclear.

At a high level, employees are generally subject to the company's direction and control and are integrated into the business, while contractors generally run their own business.

This means the key question is the extent of the control that the company has over how, where and when the work is performed. It is also relevant to consider the extent to which the worker can be seen to work in their own business as distinct from being integrated into the business of the company.

Below are some of the 'indicia' of an employment relationship:

- the employee does not have the autonomy to determine the manner in which the work is performed, their hours of work or their place of work (e.g. the company prescribes the times and locations for the performance of the work);
- the employee must perform any work the company reasonably directs within their skill (as opposed to being free to accept or reject particular work);
- the commercial risk of making a profit or loss is borne by the company, as is the responsibility for any loss occasioned by poor workmanship or negligence of the employee;
- the remuneration is in the form of a salary or wages, rather than for the completion of tasks;
- the company provides the equipment and materials for the work, and compensates the worker for any use of their own equipment or materials (through a reimbursement or allowance);
- an employee has no inherent right to delegate or subcontract their tasks to others, though there may be power to delegate some duties to other employees; and
- an employee is not free to perform similar work for others.

EMPLOYEES/CONTRACTORS, CONT'D

What is the Difference Between an Employee and an Independent Contractor? (CONT'D)

Importantly, under the FW Act, the test is to be applied by reference to how the relationship plays out in practice (i.e., the 'real substance, practical reality and true nature' of the relationship), not just the written terms of the contract.

This makes it very difficult (and quite risky) to engage a worker as a contractor where it possible they could also be considered an employee. If a company has 'misclassified' an employee as a contractor, it may face liability for substantial back payments of employee entitlements (including minimum wages and leave entitlements). In addition, substantial civil penalties may apply for a failure to provide those employee entitlements, and also for misrepresenting an employment relationship as an independent contractor relationship (unless the company has a reasonable belief that the arrangement was a genuine contractor relationship). As of February 2026, the maximum penalty is generally AUD$99,000 for a single contravention by a corporation, with a multiplier of ten (AUD$990,000) for a 'serious contravention' where the employer knowingly or recklessly contravened the provision. If the company and its related entities employ more than 15 employees, the maximum penalty amount will increase fivefold, to AUD$495,000 for a contravention and AUD$4,950,000 for a 'serious contravention'. Finally, where the contravention is in the form of an underpayment, a court can order the aforementioned applicable maximum penalty, or a penalty of up to three times the underpayment amount (whichever is greater).

Types of Employee

Australian law recognises the following different types of employee:

"Permanent" (or "ongoing") employees

This is the most secure form of employment, as the employment can only be terminated by either party providing notice. Permanent employees receive the full suite of paid leave entitlements available under Australian law, the maximum available protection from dismissal (including unfair dismissal protections), and entitlements to redundancy pay if the company ends their employment because it no longer requires their job to be done.

"Casual" employees

This is the most flexible form of employment, as casual employees are not entitled to notice of termination. In order to engage an employee on a casual basis, it is necessary to demonstrate that they do not have a 'firm advance commitment' to continuing and indefinite work.

Casual employees do not receive paid leave entitlements (with some limited exceptions) or redundancy pay, and have limited protection from unfair dismissal (they can only bring a claim if they have been engaged on a 'regular and systematic basis' for a minimum employment period (6 or 12 months depending on the size of the employer) and have a reasonable expectation of continuing employment).

In lieu of these benefits and protections, casual employees are generally entitled to a 'casual loading' which represents a 25% premium on their minimum hourly wage. They are also entitled to request conversion to permanent employment every six months (subject to various other requirements), and there are constraints on the employer's ability to deny those requests if validly made.

EMPLOYEES/CONTRACTORS, CONT'D

Types of Employee (CONT'D)

Australian law recognises the following different types of employee:

Fixed-term employees

These are either permanent or casual employees whose contracts specify an end date. As such, they are (generally) not entitled to any termination of employment protections (i.e., notice of termination, redundancy pay or unfair dismissal) when their contract expires. However, there are restrictions on the capacity to engage employees on a fixed-term basis. In basic terms, they cannot be engaged on a fixed-term basis for a period of longer than two years, and cannot be engaged on any more than two fixed-term contracts in a row.

Labour hire arrangements (or 'Employer of Record' services) are also available in Australia, whereby a labour hire agency will supply workers to the company to work in and as part of its business. Because the agency is the employer in these arrangements, it is directly responsible for the compliance, payroll and administrative burden of employing the worker. However, the company that receives the labour will also owe certain obligations to the worker (such as OHS duties) and assume certain legal risks (e.g., the risk of any 'accessorial liability' claim that the company was 'involved in' breaches of the employer's obligations).

Employee Entitlements

The FW Act sets out the National Employment Standards (**NES**), which contain 12 minimum conditions of employment. Some NES entitlements are tied to employment status (i.e. whether the employee is engaged on a permanent or casual basis) or length of service. Some of the key employee entitlements under the NES are outlined below:

- **Annual leave** (i.e. paid time off or vacation days) – permanent employees are entitled to four weeks of annual leave per year.
- **Personal/carer's leave** (i.e. paid time off if the employee is ill/injured or needs to care for a family or household member) – permanent employees are entitled to 10 days of personal/carer's leave per year.
- **Flexible working arrangements** - permanent and casual employees that have 12 months' service may request flexible working arrangements in certain circumstances (e.g. if they are pregnant, a parent, a carer, a person with a disability or are at least 55 years old), which may include changes to their working hours, patterns of work or working locations (such as remote work).
- **Minimum notice period** – permanent employees must be provided with a minimum period of notice of termination, ranging from one to five weeks depending on the employee's period of continuous service with the employer and whether they are over 45 years of age.
- **Fair Work Information Statements** – all employees must be provided with the Fair Work Information Statement (available on the Fair Work Ombudsman (FWO) website) on commencement of employment.
- **Conversion to permanent employment** – casual employees with six months' service have the right to request conversion from casual employment to permanent full-time or part-time employment.

In addition to the mandatory entitlements provided under the NES, Australian employment law also mandates minimum terms and conditions for employees who work in particular industries or occupations, including the information technology industry, banking and finance sector and the commercial sales industry, under legal instruments called "modern awards". The applicable modern award will specify the relevant minimum wage (including minimum overtime rates, and "penalty rates" for weekend and public holiday work) as well as other monetary entitlements (e.g. various allowances) and non-monetary benefits (such as a consultation process if an employee's hours of work are to be changed).

Separate to the federal entitlements established by the NES and modern awards, certain entitlements are established at the State level, including generally long service leave, which is a period of paid leave granted to an employee who has served a specified period of continuous employment with one employer, which varies from state to state. For example, in the state of Victoria, most employees (including casuals) are entitled to long service leave after seven years of continuous employment.

EMPLOYEES/CONTRACTORS, CONT'D

Superannuation

Australia's superannuation guarantee laws and the FW Act require employers to pay superannuation contributions to their employees' superannuation fund (i.e., pension fund), of 12% of an employee's ordinary time earnings. If this is not paid, the employer must pay a charge (which is higher than the amount for superannuation contributions).

Companies are also required to make superannuation contributions to a contractor's superannuation fund, where the contractor is paid 'wholly or principally for their labour'. The 'wholly or principally for their labour' test is a broad test, and at a high level has been held to be satisfied where the contractor is paid for their time rather than to produce a specific result.

Restrictions on Termination of Employment

An unfair dismissal regime operates to protect certain employees that have met a minimum employment period (either six or 12 months depending on the size of the company) being dismissed from their job in a harsh, unjust or unreasonable manner.

In addition, employees enjoy broad protections under a part of the FW Act called the 'general protections'. The general protections forbid an employer from taking any kind of 'adverse action' (such as dismissing the employee) on the basis of any 'protected attributes' of the employee (e.g. race, sex, religion, age) or because the employee exercised any of their 'workplace rights' (including the right to make a complaint or enquiry).

Other

Employers are generally required to take out insurance as part of all state/territory workers' compensation schemes (which provide compensation to employees for injuries sustained in or arising out of employment). Generally, this insurance will be secured through payment of a premium to a state/territory-based insurance fund. It is likely that you will need to register and pay premiums under applicable state or territory workers' compensation legislation.

In addition, under the 'pay as you go' (or 'PAYG') system under federal taxation legislation, employers are generally required to withhold income tax from wages paid to employees. Employers may also be required to, depending on applicable thresholds, register with the relevant state/territory revenue authority and pay payroll tax. Payroll tax is payable on the value of the remuneration paid to employees. The rate varies between states and territories, from 4% to 6.85%.

AUSTRALIA

CONSUMER PROTECTION

Consumer law is primarily governed at the Federal level by the Australian Consumer Law (**ACL**), which is contained in the Competition and Consumer Act 2010 (Cth) and enforced by the ACCC.

Avoiding unfair business practices

The ACL protects consumers against unfair business practices, including prohibiting "misleading and deceptive conduct", which is conduct that misleads or deceives, or is likely to mislead or deceive, consumers or other businesses in the course of trade or commerce. For example, a business would be engaging in misleading and deceptive conduct if it gives its customers a misleading overall impression regarding the price, value or quality of consumer goods or services or if it uses fine print to hide important information. The ACL also provides protection for consumers against unconscionable conduct and false and misleading representations.

Unfair contract terms

The ACL sets out "unfair terms" provisions, which serve to make void such terms when they are included in standard form "consumer contract" or a "small business contract".

A "small business contract" is defined as one where at least one of the parties is a business with fewer than 100 employees or that makes less than AUD$10 million in annual turnover.

A "consumer contract" is a contract for the supply of goods or services to an individual wholly or predominantly for personal, domestic or household use or consumption.

A term is considered unfair if it:

- would cause a significant imbalance in the parties' rights and obligations arising under the contract;
- is not reasonably necessary to protect the legitimate interests of the party benefitting from the term; and
- would cause detriment to a party if it were to be applied or relied on.

An example of a term that may be unfair is one that permits a business to cancel a contract at will without it being reasonably necessary to protect the business' legitimate interests or in response to an insignificant breach of contract by the consumer.

In addition to unfair terms potentially being declared void and unenforceable, significant penalties may also be imposed for the inclusion of unfair terms, the maximum financial penalty for corporations under the new regime is:

- AUD$50 million;
- three times the value of the "reasonably attributable" benefit obtained from the conduct, if the court can determine this; or
- if a court cannot determine the benefit, 30 per cent of adjusted turnover during the breach period.

Consumer guarantees

The ACL consumer guarantees regime implies a number of guarantees into contracts for the sale of goods or services where the goods or services are sold for (i) less than AUD$100,000 or (ii) more than AUD$100,000 and are of a kind normally acquired for personal, domestic or household use, unless the person acquired goods for the purpose of re-supply.

For example, there are implied guarantees that purchased goods are of acceptable quality and match any description provided by suppliers or manufacturers, and that services are provided with due care and skill and within a reasonable time.

TERMS OF SERVICE

In Australia, the enforceability of online contracts largely depends on two key issues: reasonable notice and manifestation of assent. Clickwrap agreements are generally enforceable as adequate notice and evidence of assent (e.g. through the act of clicking "I accept") can typically be made out. On the other hand, the enforceability of browsewrap agreements may be more difficult to prove given such agreements are generally designed such that users are not required to take a positive act to indicate their assent to terms. The terms of online contracts must also comply with the requirements under the ACL, such as the unfair terms regime, which may render terms in standard form consumer contracts void if they are deemed "unfair" (see "Consumer Protection" section above). As mentioned above, breaches of the regime may now also attract significant penalties, following amendments to the regime in November 2023. It is therefore important to avoid including unfair terms in a Terms of Service (e.g. allowing a party (but not the other) to unilaterally limit their responsibilities under a contract or change the terms of the contract).

TAX/FUNDING

Taxation Overview

There are complex Australian tax considerations that are relevant to investors starting a business in Australia.The following should serve as a guide only.

Australian Taxes

The main taxes imposed in Australia are:

- Federal income tax (including tax on net capital gains). The tax rate payable by companies in respect of taxable income (i.e., assessable income less allowable deductions) is 30% (25% for certain small businesses in the 2025-2026 income year). Income tax payable by resident individuals is applied progressively with the lowest rate being 16% on taxable income above the tax free threshold of AUD$18,200 and the highest rate being 45% (excluding certain other levies). There are different rates that apply to non-resident individuals;
- Withholding tax in respect of certain amounts paid to non-residents (the withholding rate is 10% for interest payments and 30% for unfranked dividends (that is, dividends paid out of untaxed profits) and royalty payments – subject to any limitations in accordance with Australia's double taxation agreements. To the extent that dividends are paid to non-residents out of taxed profits (i.e., "franked" dividends), they are generally not subject to Australian withholding tax;
- Indirect taxes, such as goods and services tax (**GST**) (the Australian VAT equivalent) which is a broad-based tax of 10% on most goods, services and other items sold or consumed in Australia. Businesses are required to register for GST if they meet the GST turnover thresholds, which are AUD$150,000 for non-profit bodies, and AUD$75,000 for other businesses. GST registration is free and can be done online through the Australian Tax Office website, or by other means including by phone or paper submission;
- State based taxes such as payroll tax, land tax and stamp duty (the liability threshold and rates of these state based taxes differ in each of the Australian States and Territories); and
- · Employment related taxes and withholdings, including fringe benefits tax (levied on the employer at a current rate of 47% for most non-cash benefits provided to employees and some contractors), withholding from payments of salaries and wages to employees and superannuation guarantee being 12% of eligible employee earnings.

Taxing Rights

Residents of Australia (including Australian resident companies) are taxed on income and gains from worldwide sources (that is, from sources both in and outside Australia).

Conversely, non-residents of Australia (including foreign resident companies) will generally only be taxed on income from sources in Australia and capital gains arising from dealing with certain assets that have the "necessary connection" with Australia (e.g., the sale, directly or indirectly, of certain interests in Australian real property).

TAX/FUNDING, CONT'D

Business Structures

Australian law recognizes a wide variety of business structures, as mentioned above. Set out below are the high-level characteristics of the main business structures from an Australian tax perspective.

Companies

The most common type of company is a proprietary company limited by shares. Registered foreign companies may also carry on business through a branch or permanent establishment in Australia.

A company will be a resident in Australia for tax purposes where it is incorporated in Australia, or it is a foreign incorporated company which has either its central management and control in Australia or its voting power controlled by shareholders who are residents in Australia.

From a tax perspective, a company is a separate legal entity and taxpayer for income tax purposes. The company will determine its own income tax liability on its taxable income. Losses incurred by the company will be quarantined in the company, although they may be carried forward and offset against future assessable income (subject to satisfying certain tests).

Partnerships

From a tax perspective, a partnership is not a separate entity. However, the partnership will be required to calculate the net income or loss of the partnership and lodge an annual income tax return setting out each partner's share of the net income or loss. Each partner will be taxed on their respective share of the net income of the partnership or can claim a deduction in respect of their share of any partnership loss.

Limited Partnerships

Limited partnerships are generally taxed as companies (with some exceptions) and have at least one partner that has limited liability. Certain limited partnerships provide tax concessions that are attractive in the context of venture capital investments (refer below).

Joint Ventures

The term "joint ventures" in an Australian commercial context reflects a variety of forms of legal association. Two relatively common variations in Australia and their income tax implications are:

- **Incorporated joint venture:** same as for an Australian company (assuming resident in Australia for tax purposes); and
- **Unincorporated joint venture:** generally, a true unincorporated joint venture where participants use the share of outputs on their own behalf means that the participants account for their own income and expenses for tax purposes. Where the joint venture includes the sharing of income (e.g., from sale of the output), it may constitute a partnership for tax purposes.

Unit Trusts

A unit trust is a form of trust in which the beneficiary's interests are represented by units. It is generally not a separate taxpayer and is generally a "flow-through" vehicle whereby the net income of the trust is recognized for tax purposes in the hands of the unitholders (i.e. in proportion to the units they hold in the trust). However, we observe:

- depending on the ownership and business activities of the trust or the business activities of entities controlled by the trust, a unit trust may be taxed as a company;
- the trustee of a trust can be liable for tax in a variety of situations (e.g., where there is net income of the trust in respect of which unitholders are not presently entitled); and
- tax losses are generally quarantined in the trust, and their future use is subject to satisfying complex trust loss rules.

TAX/FUNDING, CONT'D

Other

Foreign investors may also need to consider the tax regime in their home jurisdiction and any double taxation agreements between Australia and that jurisdiction.

Special Tax Regimes

Australia also has concessional tax regimes to encourage early stage investment, including:

- Eligible venture capital limited partnerships (VCLPs);
- Early stage venture capital limited partnerships (ESVCLPs);
- Early Stage Innovation Company (ESIC) investor offset;
- Employee share scheme (ESS) start-up concession, which can reduce the amount of tax that an eligible employee may have to pay on a discount relating to the grant of an ESS interest. The ATO has published templates of "standard documents" to assist eligible start-up companies in establishing and operating an ESS; and
- Research & Development (R&D) tax incentive program, which enables eligible taxpayers to claim a tax offset (which may be refundable or non-refundable) for expenditure on, or depreciation of tangible assets used in, eligible R&D activities.

The above rules are complex and should be the subject of specific advice.

Trends

There remains consistent and increasing attention in Australia regarding the taxation of multinationals. In that context, there have been recent substantive amendments to Australian tax laws that may impact the Australian operations of multinationals, including amendments to reporting requirements, deductibility of debt costs (e.g. thin capitalisation and debt deduction creation rules) and the OECD Pillar 2 reforms. The ATO is also actively targeting the mischaracterisation of royalty payments to non-residents in relation to intangibles (e.g., IP, software, trademarks). There are other anticipated but not yet implemented legislative amendments that may impact businesses being established and operating in Australia. Accordingly, it will be important to ensure that where a business is established in Australia, including where it is part of a multinational group, it has procedures in place to identify and monitor amendments to Australian tax laws that may have potential application in respect of their Australian operations.

Funding/Incentive Programs

There is a variety of public and private funding available for startups in Australia.

Public funding is available from all three levels of government: Federal, State and Local. To participate in government funding initiatives, startups generally need to have an Australian company number and certain limitations on annual turnover or employee numbers are often imposed.

There are many Federal, State and Local government entities or agencies that support and provide resources for developing innovation capabilities, including startups. Often these grants are in the form of a cash grant, in-kind support (e.g. educational programs or support networks, or granting tax concessions for R&D activities as discussed above).

Government grants usually carry specific purposes and contain conditions specific to that particular grant. Each grant will also contain a set of eligibility criteria that applicants must satisfy. When seeking government funding, it should be noted that:

- your business should be aligned with the industry focus of a particular grant;
- the process may be highly competitive;

TAX/FUNDING, CONT'D

Funding/Incentive Programs, Cont'd

- many businesses engage specialist consultants, accountants and other advisors to assist with grant applications;
- good record keeping skills will help the success of your grant (as many governmental departments will require detailed accounting evidence); and
- similar to seeking funding from venture capital firms, startups should be prepared to pitch before a selection panel.

At the Federal level, some grants and programs for startups and small businesses include CSIRO Kick-Start, the Business Research and Innovation Initiative (BRII), and Landing Pads. These opportunities vary from time to time and a full list of available Federal funding can be found here.

State-based incentives also run across all Australian States and Territories, with examples ranging from Grants for Agtech in Victoria, to MVP (Minimum Viable Product) Ventures in New South Wales. Please see the following State and Territory governmental websites providing further information on publicly available state-based funding.

Local councils within each of the States and Territories also run programs and initiatives to help encourage startup activity. These are generally targeted at early-stage or pre-seed companies but can extend to more mature businesses as well. Local council grants are often small business grants, and some examples include the City of Melbourne's small business grants, which contain a set of eligibility requirements (e.g. the business may need to be located locally).

Private funding in Australia presents a significant opportunity for startups looking for investment. In 2024 alone, AUD$5.4 billion was raised for Australian companies up from AUD$4 billion in 2022. Click here to learn more about the state of private funding in Australia.

Venture capital firms provide much of the private funding for startups in Australia, with institutional investors such as Airtree Ventures, Blackbird Ventures and Brandon Capital taking consistent equity positions in Australian startups in the early stages of funding. There are also various startup incubator/accelerator programs (which may include university or government operated programs) that are designed to equip new startups with both the training and investment to grow their business. Crowd-sourced funding is also available.

The Australian Investment Council (**AIC**) is the national peak body for private capital in Australia. The AIC represents and supports domestic and international private capital firms operating in Australia, and its members include private equity, venture capital, private credit and institutional investors as well as superannuation funds. The AIC publishes a set of template investment transaction documentation prepared with the input of various active stakeholders in the Australian investments industry and provides a guide on the base positions for many commercial issues in the Australian market.

Cut Through Ventures publishes proprietary data and insights on the state of the Australian startup ecosystem, including quarterly funding updates and an annual State of Australian Startup funding report. These reports are helpful in providing information about the Australian venture capital market, including where sources of funding have been derived from in recent years.

WHAT ELSE?

Registrations

To do business in Australia, it may be necessary to obtain certain registrations, depending on the type of business structure adopted. These registrations ensure that businesses can be identified, comply with tax obligations, avoid penalties and are able to protect their brand and ideas. Generally, businesses will register for an Australian business number (**ABN**), a business name, a Tax File Number (**TFN**) and any relevant licences and permits. Applications for these key registrations can be done through the Australian Government's Business Registration Service. Registering for an ABN and a TFN is free.

Consumer law

Obligations imposed under the ACL regime (see "Consumer Protection" section above), including the prohibition on misleading and deceptive conduct, cannot be excluded or limited by contractual provision or otherwise. Further, the ACL applies to all contracts involving the supply of goods and services to Australian persons or consumers, irrespective of whether the relevant contract is governed by Australian law.

Spam Act

The Spam Act 2003 (Cth) (Spam Act) regulates unsolicited commercial electronic messages and is enforced by the Australian Communications and Media Authority.

Key features of the Spam Act include:

- obtaining consent of a recipient prior to sending a commercial electronic message (Australia is an opt-in regime);
- a requirement to include accurate sender information in commercial electronic messages;
- a requirement for commercial electronic messages to include a clear, conspicuous and functional "unsubscribe" facility;
- that "unsubscribe" requests must be actioned within five working days; and
- a prohibition on supplying or offering to supply software for harvesting email addresses.

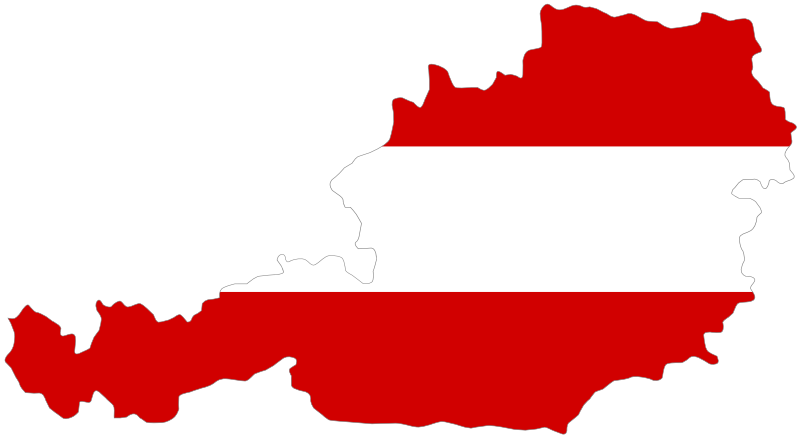
Cybersecurity Act

The Cyber Security Act 2024 (Cth) (CSA) was introduced on 29 November 2024 and requires that the manufacture of specified classes of connectable products (i.e. IoT products/smart devices) must comply with certain security standards set out in rules that are to be published by 30 November 2025. The current draft rules only set out standards that apply to consumer grade smart devices.

The CSA also imposes a mandatory ransomware payment regime, which requires (i) any organisation that carries on a business in Australia with a certain annual turnover threshold (which is likely to be AUD$3 million) and (ii) any organisation that is a responsible entity for a critical infrastructure asset, to report any ransom or extortion payments made in relation to a cybersecurity incident within 72 hours of payment.

Takeovers laws

A listed company and an unlisted Australian company with more than 50 shareholders (including employee shareholders) will be subject to Chapter 6 of the Corporations Act. This includes the prohibition of any acquisition of voting securities of such a company that would result in any person's voting power exceeding 20%, unless a permitted exception applies (such as an acquisition effected through a takeover bid or a scheme of arrangement). Companies should monitor the number of shareholders they have if they want to avoid being subject to Australia's takeovers laws.



AUSTRIA

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AUSTRIA

LEGAL FOUNDATIONS

Austria follows the **civil law system**. It thus relies on written statutes and other legal codes in the field of public, private and criminal law that are constantly updated:

- Austrian **public law** covers the relationship between individuals and the Austrian state and is enforced by administrative bodies (eg trade license requirements).
- **Private law** governs the relationship between individuals (eg contracts, warranty, liability etc) and is codified in various laws. The most important source of law in this context is the Austrian Civil Code (ABGB). Besides, there are many more laws for each specific field (eg employment, e-commerce, B2B relationships).
- **Criminal law** is mainly codified in the Austrian Criminal Code (StGB) and Criminal Procedural Code (StPO). Specific provisions, such as criminal sanctions in case of copyright infringements, are however included in respective laws.

However, final decisions, such as of the Austrian Supreme Court (OGH) are often used as supporting arguments and must be generally considered by lower courts. The legal structure is thus also further developed by case law.

CORPORATE STRUCTURES

Austrian Law provides the following forms of companies:

Corporations (Kapitalgesellschaften)

The Austrian limited liability company **(GmbH, Gesellschaft mit beschränkter Haftung)** has proven to be the **most popular form of companies** in Austria. As to its requirements:

- It requires at least one shareholder (individual or legal entity) for its incorporation.
- Further, the shareholders have to draw up and sign the articles of association in form of an Austrian notarial deed. Then, the managing directors have to file an application with the Austrian commercial register (Firmenbuch).
- The GmbH has a minimum statutory capital of EUR 10,000. The shareholders have to pay in a minimum capital contribution of EUR 5,500.
- As per 1 January 2024 the Flexible Company as new legal form in particular for start-ups was introduced: It is essentially a limited liability company with two major differences: (i) it offers flexible capital measures as with a stock corporation and (ii) "company value shares" for the participation of employees may be issued, which essentially correspond to shares in the company but (with a few exceptions) have no voting rights in the shareholders meeting.

CORPORATE STRUCTURES, CONT'D

Corporations (Kapitalgesellschaften), CONT'D

Advantages and disadvantages of corporations compared to partnerships:

ADVANTAGES

- Limited liability of the shareholders
- More attractive for investors.

DISADVANTAGES

- Minimum share capital of EUR 10,000.
- The articles of association as well as any share transfer agreement have to be in the form of a notarial deed (FlexCo: a share purchase agreement can also be certified by an attorney at law).

Further, there is a possibility to establish an Austrian stock corporation (**AG, Aktiengesellschaft**) by one or more shareholders (individual or legal entity). However, this requires a very high initial investment of at least EUR 70,000 and the establishment of a supervisory board with at least three members. It is thus no attractive options for start-ups.

Partnerships (Personengesellschaften)

Apart from the GmbH, the most common forms of partnerships for businesses are the general commercial partnership **(OG, Offene Gesellschaft)** and the limited commercial partnership **(KG, Kommanditgesellschaft)**. As to the requirements:

- In both cases, the establishment requires a partnership agreement between at least two partners (individuals or legal entities).
- For its incorporation OG and KG must both be entered into the commercial register. The partners are fully and personally liable with their personal assets.
- However different from the OG, in a KG there are two types of partners: (i) general partners, who have unlimited liability, and (ii) limited partners, who have only limited liability.
- As soon as the registration with the commercial register has been completed, the OG or the KG can start the commercial activities.

Advantages and disadvantages of partnerships compared to corporations:

ADVANTAGES

- No minimum share capital
- No formal requirements for the establishment
- No obligation to disclose the articles of association

DISADVANTAGES

- Unlimited liability; this applies to all partners in an OG and only to the general partners in a KG

Another form of a partnership is the civil law partnership (**GesBR, Gesellschaft bürgerlichen Rechts**). Its establishment requires at least two persons who have common resources and who pursue a common business purpose. The partners are fully and personally liable with their personal assets. Due to its missing legal personality, the GesBR cannot be registered with the commercial register. In sum, it is thus also not very attractive for start-ups.

AUSTRIA

CORPORATE STRUCTURES, CONT'D

Sole Proprietorship (Einzelunternehmer)

The sole proprietorship is also a commonly used legal form in Austria. The owner of the business is a single natural person. The sole proprietorship comes into existence upon registration of the business with the competent district administrative authority. The sole proprietor is fully and personally liable with his or her private and business assets. Sole proprietors do not have to be registered in the commercial register until they reach a certain annual turnover. However, voluntary registration is possible.

ENTERING THE COUNTRY

Pursuant to the Austrian Investment Control Act, certain acquisitions by persons who are no citizen of a Member State of the European Economic Area (EEA) or of Switzerland require prior approval by the Minister of the Economy. This applies to direct or indirect acquisitions of an interest of 25% or more in undertakings active in certain critical sectors (utilities, tech, supply of critical resources). For particular sensitive areas, the threshold is 10%, only. In these cases, the Minister of the Economy may prohibit the transaction if there is a threat to security or public order. Such risk will be evaluated in review proceedings, which may last up to five months.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign which can be represented graphically and is able to distinguish the goods and services from other companies can be registered as a trademark. Please note that the trademark office's registration practice is becoming increasingly strict and trademarks that were previously registered without objection are now being objected to. The registration of classes of goods and services for blockchain-based products (in particular NFTs and other token) poses challenges for applicants. Although there is now a separate Nice class for NFTs, the offices generally do not accept an application without further description.

Where to apply? Trademarks can be filed either with (i) the Austrian Patent Office, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought (Austria, EU, international extension on the basis of a national or EU trademark). The application of an Austrian trademark is very similar to the procedure before the EUIPO. However, the costs of a European trademark are significantly higher than those of a national trademark. The application can be easily filed via the online platform on https://www.patentamt.at/en/online-services/. The Austrian Patent Office then reviews the application and registers the trademark immediately if all minimum trademark requirements as mentioned above are met. With publication in the Trademark Gazette, the three months opposition period begins. Within this time period, third parties can easily and at low costs oppose the trademark.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for a ten-years-period. Renewal fees are due every ten years.

Costs? Online application costs for Austrian trademarks for three classes amount to EUR 294 (EUR 75 are charged per additional classes). In addition, fees of the legal representative apply.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that (i) the invention is novel, (ii) not obvious to a skilled professional and (iii) can be applied in industry.

Where to apply? Patent protection can be granted per country, meaning that applicant must register the patent in each country where protection is sought. Since 1 June 2023, it is also possible to apply for a European patent with unitary effect (Einheitspatent). In this case, the European Patent Office will grant a (single) patent with protection in up to 25 EU member states (currently: 18 participants). Patent applications can be filed with either (i) the Austrian Patent Office, (ii) European Patent Office (EPO) or (iii) WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection is in any case a maximum of 20 years from application and must be maintained by annual fees (rising from EUR 104 in the sixth year to EUR 1,775 in the twentieth year).

Costs? Application costs for Austrian patents for up to ten claims start at EUR 346 (additional costs may apply). In addition, fees of the legal and technical representative apply. There are patent attorneys (Patentanwälte) who specialize in these (technology-heavy) application procedures. Total costs for a patent application range from EUR 10,000 to EUR 15,000. However, there are various funding programs that can be applied for, especially in the Blockchain or AI field (see question 6 and 10).

Employee invention and inventor bonus? According to the Austrian Patent Act, employers are only entitled to commercialize employee inventions and file patent applications, if they have agreed with employees on a right to transfer all inventions made in connection with their work (eg in the employment contract). If employer makes use of such right, employee is entitled to appropriate inventor bonus, unless the employee was explicitly employed for the inventive work. The bonus is determined primarily by the value of the invention and is thus subject to adjustments in course of the patent life time. As long as the employee is actively employed, the entitlement to an adjustment of remuneration cannot be contractually excluded.

Utility Model

What is protectable? Utility models are very similar to patents ("small patent") and can be registered for technical inventions. A major difference and advantage is the six-month novelty grace period for own publications.

Where to apply? See comments on patent applications.

Duration of protection? In contrast to patents, the term of protection is only 10 years.

Costs? Application costs for Austrian utility models for up to ten claims amount EUR 346. In addition, fees of the legal and technical representatives apply.

Designs

What is protectable? Industrial or craft product or parts of it can be protected as design.

Where to apply? National designs may be registered with the Austrian Patent Office. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. Via the EUIPO Austrian applicants can also file for designs with the WIPO worldwide although Austria is no party to the Hague System for registering international designs.

Duration of protection? The term of protection is five years and can be renewed five times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? Application costs for designs amount EUR 92 plus an additional fee of EUR 15.50 per class for a single design application. In addition, fees of the legal representative apply.

AUSTRIA

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? Expressions of the intellectual creation of an author are protectable under the Austrian Copyright Act (eg literary and artistic works). Copyright protection is granted immediately with the creation of a work. No registration and no label required.

Duration of protection? Copyright protection ends 70 years after the author has passed away.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work and the indispensable right to be named as author. The author may however grant third parties non-exclusive (Werknutzungsbewilligung) or exclusive rights to use the work (Werknutzungsrecht). Since 2021, the admissible types of exploitation (Werknutzungsarten) must be regulated in even more detail. Otherwise, only those types of use are granted that are necessary to fulfill the purpose of the contract (ie no rights grant in cases of doubt).

Trade Secrets

What is protected? Trade secrets as such are not recognized as an intellectual property asset. However, the Unfair Competition Act (UWG) protects know-how and business information of commercial value that is kept secret. Thus, protection requires that companies take appropriate non-disclosure measures (eg marking information as trade secrets, implementing IT security measures, particularly access restriction and concluding NDAs).

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

The GDPR and the accompanying amendment to the **Austrian Data Protection Act** (Datenschutzgesetz, "DSG") have brought far-reaching changes to the way data protection is handled in May 2018. Data protection has become a central, economically relevant factor. However, in the meantime, the great concern about the threat of millions in fines and the initial hype surrounding the exercise of data subjects' rights has given way to a more relaxed approach to the matter.

Since the Austrian legislator has barely made use of the opening clauses, the relevant Austrian specifics in the Austrian DSG and Telecommunication Act (Telekommunikationsgesetz 2021, "TKG 2021") are limited and may be briefly summarized as follows:

- The age for child's consent in relation to information society services has been lowered from 16 to 14 years.
- Controllers and processors are required to contractually oblige their employees to keep data confidential. This obligation must also continue after termination of the employment relationship.
- Some provisions of the Data Protection Act and the GDPR do not apply to the processing of personal data for journalistic purposes by media owners (Medienprivileg). A detailed, differentiated regulation has been in force since mid-2024, after the Austrian Constitutional Court declared the blanket exception invalid. In particular, there is a right to information, rectification and erasure as well as the obligation to report data breaches under certain conditions.
- Phone calls and electronic messages for advertising purposes require data subject's prior consent. "Direct advertising" is interpreted very broadly in Austrian case law and also includes, for example, satisfaction surveys. Consent for electronic messages is not required, if the controller has received the personal data (i) in connection with a transaction, (ii) the marketing communication concerns similar products and services and (iii) the data subject has been given the opportunity to opt-out when data has been collected for this purpose as well as with every communication (soft-opt-in). Due to restrictive legislation this exemption rarely applies. As a rule, prior consent must therefore be obtained. Administrative penalty proceedings (Verwaltungsstrafverfahren) before the Austrian telecommunications authority (Fernmeldebehörde) may be initiated in the event of a violation. The possible fines are up to EUR 50,000 and are imposed on each member of the controller's Executive Board/management. For a first offense, the actual fine is usually in the low vier digit area, with each subsequent offense increasing the fine.

DATA PROTECTION/PRIVACY, CONT'D

- Marketing by occasional postal mail service can be based on legitimate interests and does usually not require opt-in. According to Austrian case law, three to four mailings spread over the year had been deemed admissible. However, consent is required for regular postal mailings.
- Prior consent is required for setting cookies which are not necessary for the provision of the service, irrespective whether personal data is processed or not. Thus, opt-in is required for all marketing, tracking, functional and analytics cookies. The practical risk of complaints is very high (see below).
- Data controllers in Austria should also observe that inclusion of data protection notices in general terms and conditions (e.g., by a respective reference therein), triggers application of the strict consumer protection law regime. Data protection notices can then be challenged in association proceedings (Verbandsverfahren). Therefore, contract and data protection documentation should be strictly separated.
- In addition, it is now also possible to assert data protection violations in the new collective redress procedure. The Association for Consumer Information (Verein für Konsumenteninformation), for example, is entitled to bring an action and the data protection association NOYB has also applied to be categorised as a qualified organisation. These organisations can then assert consumer claims based on essentially the same facts (e.g., cyberattack).
- Furthermore, the DSB conducts annual focus/sector audits (Branchenprüfungen), for example in the public sector in 2025. In this context, the authority initiates official investigation proceedings against companies in this specific sector. The companies must then usually submit their processing records, data protection documentation and answer a questionnaire.

The Austrian Data Protection Authority (DSB, Datenschutzbehörde) is the competent supervisory authority. It follows a rather data subject-friendly approach. Due to the imbalance of power, case law is even stricter in relation to employees – e.g., with regard to the requirement of voluntary consent. Employee monitoring measures are regularly the subject of proceedings before the DPA. Moreover, since May 2021, the DSB is handling more than 700 complaints (!) against European companies with respect to incriminated cookie settings filed by NOYB which is led by the Austrian data privacy activist Max Schrems. The first decisions were made in late summer/autumn 2023; some of the proceedings are still pending (https://noyb.eu/en/data-protection-authorities-support-noybs-call-fair-yesno-cookie-banners; https://noyb.eu/en/noyb-files-422-formal-gdpr-complaints-nerve-wrecking-cookie-banners). Against this background, the design of the cookie banner still harbors a high practical risk of complaints.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Austria, yet. However, the general restrictions, particularly under **data protection and copyright law** apply. In the near future, the national market authorities will supervise the compliance with the **upcoming AI Act** in Austria.

- The principles of data protection law – in particular Art 22 GDPR for automated individual decision-making – must be observed in relation to the development, testing, and operation of AI (ie separate legal basis, extended information obligations, additional data subject rights). Thus, the use of AI must not lead to any legal or similarly serious effects for the data subject, without any human intervention. An automated decision-making process is for example assumed, if a company uses results of an AI-application without any further quality-check and assessment.
- National copyright restrictions are particularly relevant for generative AI. This applies to both (i) the input data (especially web scraping) and (ii) the output of the specific AI application: The retrieval of data from the internet into set of training data is considered exploiting the content in a way that is subject to the Austrian Copy Right Act (Urheberrechtsgesetz, "UrhG"). However, the newly established Sec 42h (UrhG) on Text- & Data-Mining allows such retrieval unless interdicted by the right owner. The output of AI may infringe the rights of the author of the original work if the output is identical to or resembles an original source.
- The Austrian Government initiated a two-step plan for implementing a national regime for AI: First, a new AI-service center is established within the Broadcasting and Telecommunications Regulatory Authority (Rundfunk und Telekom Regulierungs-GmbH, "RTR"). Once the AI Act comes into force, one or more AI authorities responsible for the certification and market surveillance of AI applications will be designated.

As to the start-up scene it is worth being noted that AI is one of the innovation drivers and that there are currently numerous funding programs for AI-based business models in Austria (see question 10).

AUSTRIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

EMPLOYEES/CONTRACTORS

General: Employer and employee must conclude an employment agreement, which stipulates their rights and obligations set forth by mandatory law, collective agreements or works council agreements. The interests of employees are represented by the works council (Betriebsrat) and require its approval for specific measures (e.g., introduction of control measures, which affect human dignity) if such council is established. A company may also offer a contractor agreement (freelance contract or contract for work and services) instead of an employment agreement. For these contracts, most protective provisions of labour law do not apply.

No work for hire regime: There is no work for hire regime in Austria. Therefore, each agreement should contain a clause covering the licensing of works made by the contractual partners. Such clause should be as specific as possible, as otherwise courts will usually interpret the grant of rights in a quite restrictive manner.

Registration with social security: Every employer must register employees with the social insurance carrier and pay social security contributions based on the employee's remuneration. Further, each employer has to make monthly contributions into the severance pay system.

Termination: Employment contracts can be terminated under adherence to the applicable notice dates and periods. Good cause is not required. Still, employees are very well protected. They can challenge termination of their employment relationship based on one of the following grounds:

- proscribed motive for the termination (e.g., organizing the election of a works council, recent raising of justifiable claims against the employer or discrimination); and
- the termination is socially unjustified (due to age and future career opportunities of the employee).

In addition, certain groups of employees (e.g., works council members, pregnant employees, employees on parental leave or with recognized disability status) enjoy special termination protection requiring the approval from the competent court or public authority.

CONSUMER PROTECTION

Austrian consumer protection law is rather strict and regulated in various laws, such as (i) the Consumer Protection Act (Konsumentenschutzgesetz, "KSchG"), (ii) the Civil Code (Allgemeines Bürgerliches Gesetzbuch, "ABGB"), (iii) the Distance Selling Act (Fern- und Auswärtsgeschäfte-Gesetz, "FAGG"), (iv) the E-Commerce Act (E-Commerce-Gesetz, "ECG"), and (v) as of January 2022, the Consumer Warranty Act (Verbrauchergewährleistungsgesetz, "VGG"). These laws generally apply to all activities targeted to consumers residing in Austria, irrespective where the entity resides.

The **core provisions** are laid down in the Consumer Protection Act and Civil Code. They provide a catalogue of clauses which are inadmissible vis-à-vis consumers. Warranty law for consumers, on the other hand, is now (only) regulated by the Consumer Warranty Act. In particular, it contains specific provisions on digital services (eg update obligation).

In case of **distance selling contracts** (eg via webshops), the Distance Selling and the E-Commerce Act must additionally be adhered to. Those regulations particularly foresee various information obligations. Besides, traders must implement a withdrawal management system and ensure that consumers can exercise their right of withdrawal from any contract within 14 days without giving any reasons. This right can only be limited in specific circumstances. Furthermore, if consumers are not sufficiently informed about the right of withdrawal, this right is automatically extended for up to one year. In case of service provision in the financing sector the Austrian Distance Financial Services Act (Fern-Finanzdienstleistungs-Gesetz, "FernFinG") applies instead of the Distance Selling Act, which stipulates a similar withdrawal regime.

The **Digital Services Act ("DSA")** lays down obligations for providers of intermediary services, including mere conduit, caching, and hosting services. Online platforms are a specific type of hosting service that make user-provided information available to the public. The DSA imposes broad due diligence obligations on digital platforms depending on the type of service, such as the designation of a single point of contact and compliance with transparency reporting requirements.

CONSUMER PROTECTION, CONT'D

The **Digital Services Act ("DSA")** lays down obligations for providers of intermediary services, including mere conduit, caching, and hosting services. Online platforms are a specific type of hosting service that make user-provided information available to the public. The DSA imposes broad due diligence obligations on digital platforms depending on the type of service, such as the designation of a single point of contact and compliance with transparency reporting requirements.

Consumer protection associations, such as the association for consumer information (Verein für Konsumenteninformation, "VKI") and the chamber of labor (Arbeiterkammer, "AK") are entitled to file claims for omission and request publication of judgement against companies using invalid terms and conditions. In practice, they are quite active and often challenge clauses arguing their intransparency in order to enforce more and more favorable terms for consumers. New, innovative business models are often in the spotlight of such associations. In addition, it is now also possible to assert violations in the new collective redress procedure. Representative actions can be brought to court by qualified entities such as the VKI on behalf of consumers to seek injunctive measures or redress measures (eg refund, replacement, repair).

If consumer protection associations succeed in proceedings (which is mostly the case), business models, terms and conditions or the ordering process become invalid and have to be adjusted. This might also trigger refund obligations and can cause issues if agreements are declared as being invalid. As of May 2022, Austrian authorities are also entitled to impose fines up to EUR 2 Mio or 4 % of the company's turnover in case of invalid clauses used in terms and conditions.

TERMS OF SERVICE

Terms of services become enforceable only, if consumers have explicitly agreed to the terms (preferably via a tick-box) and had the possibility to read, print and store them upfront. Furthermore, clauses must be in compliance with restrictive consumer protection laws. According to Sec 6 Consumer Protection Act and Sec 864a, 879 Civil Code, particularly the following clauses in terms and conditions or other contracts are held invalid:

- implied renewal of the contract if specific conditions are not met;
- limitations of warranty rights;
- exclusion of liability rights for death, bodily injuries, gross negligence, willful misconduct, claims under the product liability laws, damages occurred by violations of contractual core obligations;
- one-sided rights of companies to change scope of services or prices;
- severability clauses;
- place of jurisdiction and applicable law with a lower level of protection other than at the place of consumer; and
- any other intransparent or grossly disadvantageous clause – the broad opening clause.

As to the consequences of using invalid clauses please refer to question 8.

TAX/FUNDING

Austrian start-ups are typically organized in the legal form of corporations. Therefore, we limit our tax overview on the investment into start-ups organized as an Austrian corporation.

Tax

Corporate Income Tax: Austrian corporations are subject to a flat tax at a rate of 23%.

Withholding Tax on Dividends: Dividends paid by an Austrian corporation to its shareholders are subject to withholding tax ("**WHT**"). The applicable rates are 23% for payments to corporate shareholders and 27.5% WHT for payments to individual shareholders. The WHT has to be deducted and paid by the dividend paying company to the tax administration.

A refund from the tax administration under the applicable tax treaty has to be applied for from the tax administration. In certain cases, a withholding tax relief at source can be applied directly by the dividend paying corporation.

Withholding Tax on Interest: Interest payments to non-resident companies are not subject to WHT (under Austrian domestic tax law, irrespective of any tax treaty being applicable).

Withholding Tax on Royalties: Royalties paid by an Austrian corporation to a non-Austrian recipient are subject to Austrian WHT at a rate of 20%. This tax rate can be reduced under an applicable tax treaty or under the application of the EU Interest Royalty Directive.

Capital Gains Tax: Provided that the investor shareholder is resident in a tax treaty jurisdiction, the investor is not subject to Austrian capital gains tax upon the sale of shares in the Austrian corporation. Exemptions from this principle apply in case the investor is resident in a jurisdiction with an uncommon atypical tax treaty, such as the tax treaties between Austria and France, Japan or Brazil or if the investor is resident in a country without tax treaty protection.

VAT: Generally, the Austrian VAT law is based on the 6th EU VAT Directive. Entrepreneurs have to charge Austrian VAT at a rate of 20% for the supply of goods or services but are also entitled to deduct input VAT for the supplies of goods and services they receive.

Entrepreneurs have to file monthly or quarterly VAT returns by the 15th day of the second month following the month concerned or by the 15th day of the second month following the quarter concerned. The balance of the VAT due and the input VAT deducted has to be paid to the tax office (if VAT burden) or is refunded by the tax office (if in a net input VAT position) to the electronic tax account of the entrepreneur.

R&D Incentive relevant for start-ups: An R&D premium of 14% (i.e. R&D expenses x 14% = R&D premium) may be claimed for R&D activities performed in Austria. In order to receive the current R&D premium of 14%, an expert opinion issued by the Austrian Research Promotion Agency (FFG) is required that confirms the nature of the expenses in question as R&D expenses. The definition of privileged R&D expenses is taken from the Frascati Manual.

The R&D premium is also available in case of subcontracted R&D; however, R&D incentives cannot be claimed by both principal and agent (the agent is just able to apply for the premium if the principal does not). In case of subcontracted R&D, the privileged R&D costs are capped at EUR 1 million per year. Interest WHT

TAX/FUNDING, CONT'D

Funding

A list of funding agencies throughout Austria is accessible via the Förderpilot.at platform. Below you will find some of the central contact points and programmes:

aws (= **Austria Wirtschaftsservice GmbH**) provides a comprehensive range of services throughout the development cycle of start-ups, inter alia on AI:

aws First Incubator	PreSeed - Innovative Solutions and Seedfinancing - Innovative Solutions:
PreSeed - Deep Tech:	aws-Guarantee. Leverage equity
Seedfinancing - Deep Tech:	aws Industry-Startup.Net
aws Industry-Startup.Net	aws AI Marketplace:
aws AI Marketplace:	aws Innovation Protection
aws Innovation Protection	aws Eigenkapital
aws Gründungsfonds II;	aws i2 Business Angels

The **Austrian Research Promotion Agency** FFG is the national agency in Austria for promoting and supporting innovative projects and applied research:

Spin-off Fellowship	Impact Innovation
General Programme/startup funding	Markt.Start
Projekt.Start	Innovationsscheck
Patent.Scheck	

TAX/FUNDING, CONT'D

Funding, cont'd

It also offers services for advice and networking with cooperation partners such as research institutions, universities or companies such as:

Partner search service for European projects	EUREKA partner search
Enterprise Europe Network	Research partners for the innovation cheque

The **Austrian Business Agency** of the Federal Ministry of Labour and Economic Affairs provides international start-up teams with free information and advice on the wide range of funding and financing opportunities in Austria.

Please see for funding agencies for **venture capital**: Financing: Angels, VC & Co. - Young economy. **Invest.austria** is the central point of contact for all matters relating to angel investing, venture capital and private equity. Invest Austria also offers a matching service for start-ups and investors from the Invest Austria network. The European Capital Map provides a comprehensive overview of the European venture capital industry.

Business angels not only support start-ups with equity capital, but also make their experience and network available to them. They often also invest smaller amounts (from EUR 20,000 upwards) in young companies with high growth potential. When business angels in Austria invest in start-ups, this is often done by means of a convertible loan. **European Super Angels Club** is an investment club for business angels, wealthy individuals, family offices and venture capital firms.

The **LIT Open Innovation Center** (LIT OIC) stands for low-threshold bridging between science, business and society. It offers start-ups personal savings or bootstrapping, crowdfunding and crowdinvesting as well as loans and credits. In return, it receives a share of future profits or even shares in the company. Please see also Courses and Training.

The **Austrian Federal Economic Chamber** offers information on Crowdfunding for Austrian companies. The Power of the Crowd is a guide to equity crowdfunding for companies seeking capital and investors.

The **Austria Wirtschaftsservice GmbH** offers a special guarantee for start-ups as well as aws ERP loans for start-ups.

The **Vienna Business Agency** supports companies in Vienna in all phases of their business development. It offers various programmes, especially the start-up grant.

The Startup City Vienna website summarises all existing offers in the Viennese start-up ecosystem for local and international start-ups and provides a good overview of angel investors and funding.

WHAT ELSE?

Compulsory membership in Chambers: The political and economic interests of entrepreneurs are mandatorily represented by chambers. Most entrepreneurs are represented by the Chamber of Commerce. Such membership is compulsory and triggers annual membership fees. The more trade registrations are held by a company, the more memberships with chambers are triggered.

Strict Trade Act: Almost all businesses require a trade license. This is regulated by the Austrian Trade Act, which is, however, quite strict. It distinguishes between free and regulated trades. Free trades are easy to acquire since no specific know-how must be proven before starting a business. Whereas regulated businesses must file for a regulated trade and prove by lots of certificates their competence and qualification to act in a specific field. This is eg the case for travelling agencies, intermediary services in the insurance and financing sector, investment consulting etc.

Strict jurisdiction: Austrian courts are rather strict when it comes to protection of employees, consumers, and data subjects. For businesses, the risk of non-compliance in these fields of law is rather high. It is thus recommendable to focus on these topics first, when rolling out a business in Austria.



BARBADOS

CONTRIBUTORS

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BARBADOS

LEGAL FOUNDATIONS

The legal system in Barbados is based on general principles of the common law and on statutes and subsidiary legislation enacted by the Barbados legislature. Barbados also has a written Constitution, which is the supreme law of the land. In 2021, Barbados became a Republic, removing the British Crown as its Head of State. A new Constitution has been promised but, as at March,2026 it has not materialized.

Court system. The Barbados High Court and Court of Appeal have jurisdiction in both civil and criminal matters. The civil litigation process is governed by the Civil Procedure Rules, 2008, which introduced the concept of case management into the litigation process. The Caribbean Court of Justice (CCJ), located in Trinidad and Tobago, has both original and appellate jurisdiction. In its original jurisdiction, it adjudicates, inter alia, on matters involving the interpretation and application of the provisions of the Revised Treaty of Chaguaramas, which established the Caribbean Community (CARICOM). In its appellate jurisdiction, the CCJ hears appeals from the Barbados Court of Appeal as well as from courts of appeal in Guyana, Belize, St Lucia and Dominica. Also in Barbados, the Magistrates Courts have jurisdiction in criminal, civil and family matters, including jurisdiction over contract and tort claims not exceeding $10,000 Bds. The judicial system is supplemented by specialist tribunals, such as the Employment Tribunal, which hear matters within their respective legislative jurisdiction. Since Barbados has been actively updating its laws, new Commissions and Tribunals are being established to address those particular regulatory requirements.

CORPORATE STRUCTURES

Corporations. Though there are several corporate structures available in Barbados, the most common and relevant for trading in goods and services and for holding assets is the limited liability company (identified by the letters 'Ltd', 'Inc' or 'Corp') within the statutory requirements in Companies Act, Cap 308 (CA) and Companies Regulations, 1984. A private company must have at least one director; a public company must have at least three directors, at least two of whom not being officers or employees of the company or any of its affiliates. Corporate governance is laid down in a company's Articles of Incorporation or the By-Laws, which regulate issues relating to the management of the business, election of directors and ownership of shares. Directors need not be locally resident. Restrictions, if any, on the number of shares or classes of shares, on transfers and on public subscriptions, on the number of directors and on the authorised type of business, must be specified in the Articles of Incorporation. There are no requirements to file a company's By-Laws with the Corporate Registry. Once a company has been formed, in addition to obtaining any relevant licences to operate, there are statutory requirements such as registering with the Barbados Revenue Authority and the National Insurance Scheme. All companies are required to file annual returns, whilst those holding assets over a statutory limit have further obligations. Provided all the required documentation is in order and filed with the Registry, incorporation of a company may be completed within five business days.

External companies may also re-register in Barbados. Companies operating under a franchise must be locally licensed to operate as such. In addition, there is sectoral legislation governing the licensing of companies' activities.

BARBADOS

CORPORATE STRUCTURES, CONT'D

Partnerships. A 'partnership' is defined in the Partnership Act, Cap 313, asan arrangement between 'persons carrying on a business in common with a view of profit' and is expressly contrasted with the relation between members of a company registered under the Companies Act, Cap 308.

Types of partnerships:

General partnership, in which all partners are equally responsible for the management of the business, and each has unlimited liability for the debts and obligations incurred by the business.

Limited partnership, established by the Limited Partnerships Act, Cap 312, in which the persons entering into such relationship are called 'A Firm'. Liability of the partners is limited to the amount of money they have contributed to the partnership. A limited partner may not take part in the management of the business but has a right to inspect the books of the firm at any time. Limited partners are therefore normally passive investors in the business.

ENTERING THE COUNTRY

There are generally no restrictions on foreign investment or on foreign ownership of businesses.

Barbados enjoys the benefit of a network of double taxation treaties and bilateral investment treaties. It is always advisable to first seek tax advice in the country of origin.

Since there is a varied regulatory approach and concessions depending on the sector, sector specific advice should always be sought.

In August,2025, the Barbados Immigration Bill was introduced by the government. If passed into law, it will introduce a points-based system for skilled migration, streamline pathways to permanent residence, and introduce permits in order to facilitate economic participation by foreign nationals.

INTELLECTUAL PROPERTY

The Patents Act, the Trade Marks Act and Regulations and the Industrial Designs Act and Regulations were amended in 2006 to ensure compliance with the World Trade Organisation Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPPS).

Trade secrets, which may be defined as any type of information, useful in a business context, that is kept confidential, such as financial information, business methods, customer lists, datasets and algorithms, are protected at common law (for example, through non-disclosure agreements and restraint of trade clauses in employment contracts) and through equitable principles relating to breach of confidence.

There is statutory protection for the layout designs of integrated circuits and new plant varieties. There is also legislation for registering geographical indications which, to date, has not been widely utilised by international applicants.

In order to fulfil its obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, the Barbados legislature enacted the Protection Against Unfair Competition Act in 2001. This Act provides for the civil remedies of injunctions and damages in cases of unfair competition involving such matters as damage to goodwill, discrediting of enterprises, confusion with respect to trademarks or trade names and disclosure of secret information.

Barbados is not currently on the Madrid System.

BARBADOS

INTELLECTUAL PROPERTY, CONT'D

Trademarks

What is protectable? Under the current legislation, the Trade Marks Act, Cap 319 (TMA), any visible sign or combination of signs and words, used or proposed to be used to distinguish the goods or services of one company from those of other companies, may be registered as a trademark. Collective marks and certification marks, as well as domain names, are also protected under the Act.

Barbados also recognises trademarks which have been in use in Barbados but have not been registered. Local business name registrations may take priority over trademark applications if not challenged through other procedures.

Barbados follows the Nice Classification System.

Where to apply? As from the 1st February, 2025, trademarks are filed at Business Barbados, a new body corporate under which the Registrar of Companies is responsible for administering and ensuring compliance with intellectual property legislation (Business Barbados Act, 2024, section 13). Once the application is received, Business Barbados will conduct its own searches, perform a substantive examination. and publish the application in the Official Gazette, providing an opportunity for opposition. In the absence of any opposition, the trademark will be registered.

Duration of protection? If no oppositions are filed, registration of a trademark remains valid for a period of 10 years from the date first mentioned on the certificate of registration. It can be renewed subsequently every ten years for a renewal fee.

Patents

What is protectable? A patent may be granted under the Patents Act, Cap 314, section 7, for an invention that is (i) 'novel' (i.e., previously undisclosed, whether by publication, oral disclosure or any other means (section 8)), (ii) 'involves an inventive step' (i.e., not obvious to a person of average skill in that field (section 9)), and is (iii) 'industrially applicable' (i.e., can be made or used in any kind of industry (section 10)).

Unpatentable inventions include, inter alia, discoveries, scientific theories, mathematical methods, methods of surgery or therapy, medical diagnostic methods, business methods, biological processes for plant production (section 11).

Patents, cont'd

Where to apply? The majority of applications filed in Barbados to protect novel industrial inventions are those entering the national phase under the international Patent Co-operation Treaty (PCT) system. There is no automatic system of registration in Barbados; each application is examined for compliance with requirements under the Patents Act.

Barbados also acts as a receiving office for PCT applications.

Duration of protection. Subject to the payment of annuity fees, a patent will last for 20 years.

Industrial Designs

What is protectable? The Industrial Designs Act, Cap 309A (IDA) describes an industrial design as 'any composition of lines or colours or any 3-dimensional form (whether or not associated with lines or colours) that gives a special appearance to a product of industry or handicraft, and serves as a pattern for a product of industry or handicraft.' The design must be 'new', in the sense that it was not available to the public through description, use or like manner anywhere or at any time before the priority date claimed or before the date of application.

Where to apply? Applications for registration of industrial designs are filed at the Registry of Business Barbados.

Duration of protection. The term of protection is 5 years from the date of registration and may be renewed for two further consecutive periods of 5 years.

Copyright

What is protectable? The copyright in an original literary work (including computer programmes), artistic, musical or dramatic work, or in a film, sound recording, broadcast or cable programme, receives automatic and immediate protection (Copyright Act, Cap 300, section 6).

Duration of protection? Copyright protection terminates automatically 50 years after the death of the author or creator of a literary, musical, artistic, or dramatic work under the existing Copyright Act, Cap 300.

INTELLECTUAL PROPERTY, CONT'D

Copyright, cont'd

A new Copyright Act, 2023, has been tabled in Parliament but, as of February 2025, it has not been brought into force. The proposed legislation recognises original databases as eligible for copyright protection. The duration of protection will be extended to 70 years following the end of the calendar year in which the creator dies.

Of note in the new Act is that there is no specific fair use or other exemptions specifically for text and data mining on which AI models may be trained. Thus, at this time, it is presumed that there is no automatic opt-in of copyright work for AI data training sets without consent of or licence from the copyright holder.

DATA PROTECTION/PRIVACY

The current Constitution of Barbados guarantees the right to protection of the law and the right to protection of the privacy of a person's home and other property.

The Data Protection Act, 2019-29, which was brought into force on the 31st March, 2021, is modelled to a limited extent on the GDPR. One of its statutory aims is to protect the privacy of individuals in relation to their personal data by creating obligations on controllers/processors regarding the processing of such data. The Act covers both personal data processed by equipment and data not processed by equipment but existing within a relevant filing system. The territorial scope of the Act extends to the processing of personal data by persons within Barbados and to the processing of personal data where goods and services are offered in Barbados by those not established in Barbados.

The principles of processing of personal data expressed in the Act are equivalent to those in the GDPR, namely: (i) lawfulness, fairness and transparency; (ii) purpose limitation; (iii)data minimisation; (iv) accuracy; (v) storage limitation; (vi) security (integrity and confidentiality).

Accountability is not specified as a principle, but may be inferred from the requirements of record keeping of the processing activities of controllers and processors.

Under the Act, 'health' data is not included within the definition of sensitive data. Included within the definition are racial or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, membership of a political body, membership of a trade union, genetic data, biometric data, sexual orientation or sexual life, financial records or position, criminal records, and proceedings for any offence committed or alleged. Processing of these categories of data requires the existence of additional lawful bases, as specified in section 9.

Data protection impact assessments are required where new technologies are used which result in processing which is of high risk to the rights and freedoms of an individual, such as (i) where there is systematic and extensive evaluation of personal aspects of individuals based on automated processing which produce legal effects, (ii) processing of sensitive personal data on a large scale, (iii) systematic monitoring of a publicly accessible area on a large scale.

Data privacy officers should be appointed by private organisations whose core activities consist of large-scale processing of sensitive personal data, or processing that requires systematic monitoring of data subjects on a large scale. The Act requires data privacy officers to have expert knowledge of data protection law and practice.

DATA PROTECTION/PRIVACY, CONT'D

Under the Act, data subjects have rights of:- access to personal data being processed by the data controller; rectification of data; erasure of data; restricting processing; data portability; preventing processing likely to cause damage or distress; preventing processing for the purposes of direct marketing. Data subjects also have the right to be informed by the controller that their personal data are being processed and the right to information about their personal data which are not obtained from the data subject. Further, pursuant to a 'subject access request' (SAR), a data subject has a right to a copy of any data held by the controller. Finally, a data subject has a right not be subjected to a decision affecting him based solely on automated means, including profiling.

Multinational companies should be familiar with additional obligations under Part IV of the Data Protection Act pertaining to international data transfers. Coupled with the requirement of an adequate level of protection for personal data in the territory to which the data is to be transferred are the requirements of (i) the existence of appropriate safeguards in that territory, (ii) enforceability of data subjects' rights, and (iii) effective legal remedies.

Binding corporate rules are just one of the methods of safeguarding data subjects' rights in transferring personal data outside Barbados. Other methods include standard data protection clauses, and contractual clauses between the data controller or processor and the recipient of the personal data.

Penalties for non-compliance with the Act include fines of $500,000 Bds or a term of imprisonment.

An individual who has suffered damage or distress due to a contravention of the Act is entitled to compensation from the data controller or data processor.

There is provision for the establishment of a Data Protection Tribunal.

General administration of the Act falls within the remit of the Data Protection Commissioner, who is not functionally independent from a government ministry. The Act is still in its operational infancy. At the time of first writing this piece in 2024 and as at March, 2026, the Commissioner's Office has not issued appropriate codes of practice for guidance, nor recommended the development/adoption of contractual standard clauses, and it may not yet have approved any binding corporate rules; nor has any Commissioner's report of activities been tabled in Parliament. It is our understanding that the Commissioner is continuing to focus her attention on 'sensitizing' the public about data protection.

In its 2026 manifesto, the governing party in Barbados promised to introduce stronger regulations, proper audit trails, data minimisation and enforcement of privacy by design, and to implement digital service standards, a 'once only consent' for government services, and stronger data governance regulations.

BARBADOS

ARTIFICIAL INTELLIGENCE

In the Government AI Readiness Index for 2025, produced by Oxford Insights (recognised for its reliability by UNESCO), out of 194 countries ranked, Barbados was 155th. The index claimed to have measured not only government but also the technology sector and data and infrastructure, using 40 indicators for a country's readiness for the use of AI in the delivery of public services. As at March,2026, there was no formal AI strategy vision for Barbados. In its 2026 manifesto, the governing party promised to indicate a clear AI vision,policy and safety framework, and , in addition, to build its own National Data Center (not necessarily AI), to host critical digital infrastructure and its own sovereign cloud, and to test supercomputers.

Although there is no specific legislation governing AI in Barbados, the Caribbean Court of Justice has recognised the possibilities of AI in practice Direction No 1 of 2025, on 'The Use of Generative Artificial Intelligence Tools in Court Proceedings'. The Practice Direction, which may be updated, seeks to prohibit the use of Gen AI in witness statements, in affidavits, or in any other material tendered into evidence or to be used in cross-examination. Such statements as to facts and opinions must be within the personal knowledge of the person so making them. The PD also prohibits the use of Gen AI in altering or strengthening or weakening evidence of a witness or deponent. However, by way of exception and following the transparency specificity of the PD, GenAI may be used, with permission, for the purpose of 'preparation and generation of any annexure or exhibit to an affidavit or witness statement'. Legal counsel may also responsibly use Gen AI in the preparation of other court documents such as written submissions, summaries, research and reports, but they must follow professional ethics (such as integrity, protecting privileged and or confidential data) and conduct, and they are responsible for the accuracy and independent verification of outputs produced. Thus, in Nexgen Pathology Services Limited v Duncan (2025) High Court, Trinidad & Tobago, no CV 2023-04039, per James, counsel was referred to the Disciplinary Committee of the Bar Association for citing, in written submissions, non-existent cases obtained without verification through the use of online platforms.

The existing Data Protection Act, 2019-29, where applicable, governs AI in Barbados. The creation/training on an AI algorithm on volumes of personal data and the subsequent use of that algorithm will be caught by the legislation. In the context of AI models and data protection under the GDPR, the guidance of the EDPB (Opinion 28/2024) is illustrative. The Board's opinion is that anonymity of personal data in training data requires a factual assessment by a supervisory authority in determining whether there can be either (i) no probability of a direct link through extraction of personal data, or (ii) if there were a probable risk of linking, that risk would be insignificant. In both situations, personal data used for training will be considered anonymous and be outside of data protection legislation. That opinion also examined whether controllers can rely on legitimate interest as a legal basis for processing personal data, in both developmental and deployment stages of an AI model, using a cumulative three step test-- (a) a lawful interest, (b) a clearly and precisely articulated interest, and (c) a real and present interest as opposed to a speculative one. In the assessment of the final step, one must factor in the context and consequences, as well as the likelihood of further processing of the personal data, where personal data are processed by the AI model, and when assessing the risk that the fundamental rights of the data subject may be affected differently in the developmental stage as opposed to the deployment stage. Tailored mitigating measures, in the nature of the non-exhaustive list mentioned in the Opinion, may be employed to lessen the impact on data subjects whose fundamental rights appear to have been impacted to a greater extent than the legitimate interest of the controller or third party. The Opinion also stated that it is within the discretionary powers of a supervisory authority to adopt any appropriate remedy for an infringement consisting of unlawful processing of personal data in the developmental stage and in a subsequent stage that is necessary and proportionate.

Other legislation, such as the Computer Misuse Act, 2005-4 (which aims to protect computer systems and information contained therein from unauthorised access and abuse) may apply. The Cybercrime Act, 2024, when it is brought into force, together with the Mutual Assistance in Criminal Matters Act, Cap 140A (and its amendment), will replace the Computer Misuse Act, 2005-4. The Cybercrime Act is modelled on the Council of Europe's Convention on Cybercrime (EST No 185) (Budapest Convention), whilst taking into account local peculiarities, and is primarily aimed at combating cybercrime but also has as one of its aims 'the protection of legitimate interests in the use and development of information technologies'.

ARTIFICIAL INTELLIGENCE, CONT'D

The Act covers a range of crimes also committed through computer systems performing automatic processing of data, and would cover AI algorithm systems underpinning any automatic processing. The Cybercrime Act primarily seeks to address computer related crimes of fraud, forgery, child pornography, grooming, online sexual abuse, cyber bullying and cyber terrorism, interference with critical information infrastructure systems of the country and malicious communications. The Act also has a consequential effect on the Copyright Act, Cap 300.

On the 8th August, 2024, a Joint Select Parliamentary Committee on Governance and Policy Matters issued its report in accordance with its terms of reference suggesting minor changes. In November, 2024, the proposed Cybercrime Act, 2024 was unsuccessfully challenged before the Inter-American Commission on Human Rights on the ground of its potential negative impact on freedom of expression, religion and conscience. Nevertheless, there may be scope to legally challenge the compatibility and proportionality of the broad based aim of the legislation 'to protect legitimate interest in the use and development of information technologies' and the wide exemptions provided to law enforcement under Part V of the Data Protection Act, vis-à-vis the protection of fundamental rights under the Constitution. As at March,2026, the Cybercrime Act has not been brought into force.

EMPLOYEES/CONTRACTORS

Employment law in Barbados is an active area, with legislation being consistently upgraded to provide stronger protections for employees. In its 2026 manifesto, the governing party promises to introduce a new labour code to protect non-traditional workers such as those in the gig economy.

The main act is the Employment Rights Act, 2012 (as amended). Employers are required to provide written employment agreements outlining the full terms and particulars/conditions of employment, including those particulars which are required to be addressed under the Act. Some terms may be implied by operation of the common law or may have developed by practice, and some may be statutorily implied where the contract is silent. Other terms may be incorporated by reference in the contract of employment to the employer's Handbook or to its policies, which should all be acceptably within the law.

There is also a national minimum wage under the Minimum Wage Act, 2017, which has been supplemented by minimum wages for certain categories of workers. Allowable deductions are those permitted under the Protection of Wages Act, Cap 351.

Also of note is the Safety and Health at Work Act, 2005, as amended and supplemented by regulations, which impose statutory duties on employers regarding their employees' working environment.

CONSUMER PROTECTION

Fair Trading Commission. The Fair Trading Commission (FTC), established by section 3 of the Fair Trading Commission Act, Cap 326B, is responsible for the administration of the Fair Competition Act, Cap 326C (FCA), section 4). It also administers utility regulations, including standards, as they relate to electricity, telecommunications and water. In pursuing its functions of promoting competition and enhancing co-operation, the FTC co-operates with similarly Amandated regional institutions within the Caribbean Community (CARICOM) and with the CARICOM Competition Commission. It also receives technical assistance on competition issues from the United States Federal Trade Commission through its membership of the International Competition Network.

Consumer protection legislation. A division within the FTC, which is responsible for safeguarding consumer protection issues, actively monitors the safeguarding of consumer protection both offline and online on social media and websites. Online advertising for the sale of goods or services must comply with the regular laws for the sale of goods and services, including the prohibition against, inter alia, unfair contract terms, misleading or deceptive conduct, bait advertising and pyramid selling, as embodied in the Consumer Protection Act, Cap 326 D (CPA).

A contract term is unfair if, to the detriment of the consumer, it causes a significant imbalance in the rights of supplier and consumer (CPA, section 7), and the Schedule to the CPA contains a comprehensive list of objects and effects that might render a contract term unfair. Apart from unfair trade practices, other matters governed by the CPA include product liability and consumer safety.

CONSUMER PROTECTION, CONT'D

Responsibility for the administration and enforcement of the CPA is given to the FTC, which has power to issue prohibition and warning notices, to obtain information, and to accept and enforce undertakings. The FTC may also apply to the High Court for an injunction restraining a person from engaging in conduct that would contravene certain provisions of the CPA.

The Consumer Guarantees Act, Cap 326E (CGA) sets forth the guarantees available to consumers in the supply of goods and services by suppliers and manufacturers. It is equally applicable to online transactions. The guarantees under this legislation cannot be ousted by any provision to the contrary in an agreement or by any written contractual terms (section 50). Goods supplied to consumers must be of 'acceptable quality' (section 6), which means that they must be (a) fit for all the purposes for which goods of the type in question are commonly supplied, (b) acceptable in appearance and finish, (c) free from minor defects, (d) safe, and (e) durable (section 7). Further, where goods are sold to a consumer by description, they must correspond with the description (section 9). Where goods are first supplied to a consumer in Barbados, there is a guarantee that the manufacturer will take reasonable steps to ensure that facilities for repair and supply of parts are reasonably available for a reasonable period after supply (section 13). Services supplied must be carried out with reasonable care and skill (section 29), and the service and any product resulting from the service must be reasonably fit for purpose (section 30). Compliance with this Act is monitored by the Office of Public Counsel.

The Fair Competition Act, Cap 326C (FCA) also contains provisions that indirectly enhance consumer protection, such as those prohibiting anti-competitive agreements and abuse of a dominant position (Part III), resale price maintenance (Part IV), and anti-competitive business conduct (Part VI).

We understand that there may be major changes to consumer protection legislation in Barbados and that new draft legislation may be circulated during 2025.

TERMS OF SERVICE

Online contracts are enforceable in Barbados provided the requirements of reasonable notice and evidence of assent are satisfied.

A click wrap agreement will generally be enforceable because the act of clicking, "I accept", will simultaneously constitute reasonable notice of its terms and sufficient evidence of assent. By contrast, a browse wrap agreement, where the consumer is not required to take any positive step indicating assent to its terms, may not be enforceable.

Where a sale is involved, an online contract must also comply with the provisions of the Consumer Guarantees Act and Consumer Protection Act, particular with respect to the unfair contract terms provisions of the CPA, so that an online standard form agreement will be void if its terms are deemed 'unfair' within the CPA.

Section 16A of the Electronic Transactions Act, Cap 308B requires that, when goods and services are sold or offered by electronic communication, the seller or offeror must provide such information as its legal name, principal mailing address, telephone number, electronic means of contact, and information to facilitate service of legal process. Further, consumers must be provided with accurate and accessible information describing the goods or services, so as to enable them to make an informed decision about the particulars of a transaction, including the terms, conditions and methods of payment, and conditions relating to withdrawals, termination, return, exchange, cancellation and refund policy.

An amendment to section 2 of the Act validates the electronic signature, which is defined as 'a digital or electronic method used to identify an individual and indicate that individual's approval.'

TAX/FUNDING

Corporate Taxation

Since startups are typically organised as corporations, the principal applicable regime will be corporate taxation.

Further, in the 2023 Budget, it was announced that transfer pricing legislation modelled on the OECD guidelines would be enacted . Such legislation will provide for the consistent application of the 'arms-length principle'.

Domestic tax reform. In 2024, a series of tax measures became law. The most important recent change is under the Income Tax (Amendment) Act, 2024 ('2024 Act'), which imposes a new 9% corporate tax rate. This replaced the previous sliding scale, which ranged from 5.5% on taxable income up to $1 million Bds, dropping to 1% on taxable income over $30million. However, small businesses, i.e., companies with gross revenue of $2 million Bds or less and registered under the Small Business Development Act, Cap 318C are subject to 5.5% tax rate.

Under the 2024 Act there are new rules requiring monthly prepayments of corporate income tax (section 64B.1).

Two additional amendments to the original Income Tax Act, taking effect in 2024: (i) 'Patent box regime', under which income earned from qualifying intellectual property is taxed at one-half of the new domestic tax rate, ie at 4.5% (section 43B). This will be attractive for smaller companies, but entities subject to global minimum tax in Barbados will be taxed at a 'topped up' rate of 15% (see below): (ii) 'Group relief' for the surrender of losses, whereby the trading losses of a 'surrendering company' can be set off against the profits of a 'claimant company', subject to satisfying a number of technical requirements (sections 23N-23V). Every company engaged in group relief must be registered in Barbados (section 23M (5).

Global minimum tax. Under the 'Pillar Two' regime, in-scope multinational enterprises (MNEs) are those with an annual revenue of over EUR 750 million. Under the Corporation Top-Up Tax Act, 2024-16, MNEs' Barbados entities are subject to the global minimum tax rate of 15% (ie, 'topped up 'from the 9% domestic tax rate). The top-up rate is generally effective from the tax years commencing on or after January 1, 2024. However, for 2024 only, the top-up tax effectively does not apply where the group is not subject to Pillar Two in the country of its headquarters. The overall tax rate for MNEs operating in Barbados is likely to increase; however, companies have taken the view that payment of top-up tax is unavoidable, and it may as well be paid in Barbados as in any other jurisdiction.

Qualifying refundable tax credits are available for eligible corporations, including a jobs credit (up to 100% of eligible payroll expenditure depending on the number of employees) (2024 Act, section 65H), and a research and development ('R&D') credit of 50% of eligible expenditure on qualifying R&D activities (section 65I).

Conclusions. Barbados has sought to reduce the effects of higher taxes by (a) implementing the qualified jobs credit and R&D tax credit, (b) proposing additional credits in the 2024 Budget, including, for example: 100% tax credit for local companies digitising and/or reengineering their business processes and upgrading their systems up to 30 June, 2025; 50% tax credit for centres offering AI, coding, robotics and digital branding; 50% refundable tax credit for projects resulting in net zero emissions in Barbados.

Double taxation treaties and bilateral investment treaties exist between Barbados and many jurisdictions, including Canada, Switzerland and the UK. It was announced in the 2024 Budget that the treaties will be modernised, and new tax treaties will be negotiated with other global trading nations, to further attract foreign investors.

Value Added Tax

Since 1 January, 1997, value added tax (VAT) has been levied on all goods and services supplied in Barbados, and on goods imported into Barbados, at the rate of 17.5%. Certain goods and services are zero-rated and exempt from VAT. Hotel accommodation and certain supplies related to tourism are taxed at the rate of 10%, while the supply of mobile services (voice, data and text messaging) are taxed at an enhanced rate of 22%.

TAX/FUNDING, CONT'D

Individual Taxation

No capital gains or wealth taxes. In Barbados, there is no application of capital gains tax on profits earned from the sale of capital assets: there are no wealth or inheritance taxes.

Remittance-based taxation for non-domiciled individuals. There is taxation on a remittance basis for any income earned outside Barbados, meaning that only income that is remitted to Barbados is subject to personal income tax: income earned abroad and not remitted to Barbados will not attract personal income tax.

Foreign currency earnings allowance (FCEA). Residents of Barbados who earn income from sources outside Barbados and transfer it through the Barbados banking system can claim an allowance of up to 65% of the tax payable on that income.

The Barbados Revenue Authority's website (www.bra.gov.bb) contains information relating to taxation and key fiscal announcements for the financial year of 2024/2025, and information concerning Barbados' time frame for implementing the Crypto-Asset Reporting Framework (CARF). The website also contains links to related websites.

Funding

Outside of traditional financing, start-ups may seek loans/grants in Barbados through the following agencies:

Caricom Development Fund, which partners with the European Union and with the governments of Australia, China, Finland, Luxembourg, Turkey and the United Kingdom to provide funding for alternative energy transition and climate resilience projects, as well as for infrastructural projects in the Caribbean Community, of which Barbados is a member state. It is known that the region as a whole has experienced under-investment in upgrades to telecommunications infrastructure. Thus, this field may be ripe for investment. The Fund's website is: https://caricomdevelopmentfund.org.

Enterprise Growth Fund Limited (EGFL) provides venture capital in traditional sectors of the economy, as well as in the innovative and IT sectors, for projects that are 'majority-owned' by residents (not necessarily citizens) of Barbados, in exchange for 49% worth of cumulative preference shares in the founding company redeemable at the end of five years. The EGFL's website is https://egfl.bb .

For those start-ups whose focus is on exporting from Barbados, **Export Barbados** (formerly known as the Barbados Investment Development Corporation) may provide valuable financial and technical assistance: https://exportbarbados.org/basics-of-exporting.

WHAT ELSE?

The laws and regulatory environment have been modernizing rapidly since 2020. There are many pieces of legislation which may affect business but which have not yet been proclaimed into law, possibly for other infrastructural reasons. A foreign entity should seek specific legal advice before investing.

Fin Tech services, for instance, which seek to offer financial services similar to services offered by traditional banks, may have additional licensing (such as those imposed by the Central Bank, and, for non-banking, Financial Services Commission or the Securities Commission) and corporate governance compliance requirements. In January, 2025, Barbados welcomed its first insurance company receiving a class 2 insurance licence from the Financial Services Commission to offer US priced insurance for directors and officers backed by Bitcoin reserves.

In its 2026 manifesto, the governing party has promised to expand BimPay for the establishment of digital wallets, e-signatures and e-transactions. It also promised to adopt stablecoin technology and to introduce legislation addressing digital tokens technology for the exchange of physical property assets.

Barbados markets itself as seeking foreign direct investment in Life Sciences, the Blue Economy Climate Resilience Projects, Agro-processing AI Projects, Renewable Energy, Information Technology, International Financial Services, in addition to the traditional Tourism industry. In 2024, Barbados passed the Barbados Blue Green Bank Act, 2024 making provision for wholesale financing mechanisms to other financial institutions, governmental agencies and real estate developers for the development of the blue, green or clean energy technology sectors of the economy. The governing party also promised in its 2026 manifesto to develop a 'R&D and Deep Tech Hub' for positioning start-ups, conducting trials in life sciences and developing exportable-IPs, as well as to introduce the appropriate legislation as part of its modern reindustrialisation programme, to be called 'Green Industrialisation Gate Advantage' (GIGA).

Where a merger between two or more enterprises is proposed, an application must be made to the Fair Trading Commission under FCA, section 20 and Fair Competition (Merger) Rules, 2009, rule 2. There is a market share threshold for clearance by the FTC; namely, that the merging parties, or the merging parties combined, must not control more than 40% of any market for goods or services supplied in Barbados. The FTC may request such information as is necessary to satisfy itself that the transaction does not lessen competition or adversely affect the interests of consumers. 'Merger' is defined in FCA, section 2 as 'the cessation of two or more enterprises from being distinct, whether by amalgamation or by one or more enterprises acquiring control over another', or 'the engagement in a joint venture between enterprises which results in two or more enterprises ceasing to be distinct entities.'



BELGIUM

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BELGIUM

LEGAL FOUNDATIONS

The Constitution establishes Belgium as a parliamentary democracy with a federal structure, divided into three regions (Flanders, Wallonia, and Brussels) and three communities (French-, Flemish-, and German-speaking).

The powers of the communities and regions on the one hand and the federal government on the other are well defined. This means that each government can regulate autonomously within its areas of competence and there is no hierarchy between federal laws and regional decrees. Broadly speaking, the regions dispose of economic matters (e.g., economy, employment, foreign trade, etc.) and the communities dispose of personal matters (e.g., culture, education, health policy, etc.). Roughly speaking, the powers of the federal government include everything related to the general interest. In the general interest of all Belgians, the federal state manages, for example, finance, the army, justice, social security, foreign affairs as well as important parts of public health and internal affairs, etc. The federal government is also competent for everything that does not explicitly fall under the competence of the communities and regions.

Belgium follows the **civil law** system and relies on written statutes and other legal codes in the field of public, private and criminal law:

- **Public law** covers the relationship between individuals and the Belgian state and is enforced by administrative bodies and the Council of State (e.g., subsidies, product regulations).
- **Private law** governs the relationship between individuals (e.g., contracts, warranty, liability etc.) and is codified in various laws. The most important source of law in this context is the Code of Economic Law. The Code of Economic Law covers a wide variety of economic matters; from market practices and consumer protection to intellectual property, advertising, and enforcement. Other specific fields of law (e.g., insurance law, insolvency, and corporate law) are governed by their own legislation. The new Belgian Code of Companies and Associations of 2019 modernizes company law in order to make Belgium more attractive for both domestic and foreign businesses.
- **Criminal law** is mainly codified in the Belgian Criminal Code and the Belgian Code of Criminal Procedure. Specific provisions, such as criminal sanctions in case of copyright and social infringements, are however included in respective laws.

Belgian judges are not bound by decisions of higher courts, and every judge is free to decide a case as he or she deems right. All judges are independent and subject only to the law. Belgian law does not recognize the common law concept of precedent. Decisions by higher courts do not, therefore, form a part of the law to which judges are subject.

However, in practice, decisions of higher courts are regularly followed by lower courts.

BELGIUM

CORPORATE STRUCTURES

One of the first legal steps that any entrepreneur should consider is the incorporation of a company. In Belgium, the limited liability company, either in the form of a private limited liability company ("besloten vennootschap/société à responsabilité limitée"; hereinafter "BV/SRL") or a public limited liability company ("naamloze vennootschap/société anonyme"; hereinafter "SA/NV"), are the most common legal forms.

For a start-up, the incorporators often opt to incorporate a BV/SRL, since a BV/SRL does not require minimum capital, but only a sufficient equity for the first three years, as shown in a financial plan that is filed at incorporation. The SA/NV, on the other hand, requires aminimum capital of €61,500 which has to be fullypaid up.

The benefits of forming a limited liability company include the following:

- A limited liability company has a distinct legal personality separate from its owners. It can enter into contracts with third parties, hire employees, obtain financing, etc.
- A Belgian limited liability company is incorporated through a notarial deed that is then filed with the competent court. The notarial deed grants authenticity to and confirms the legality of the incorporation of the company and its articles of association.
- A limited liability company enables incorporators to control their exposure to financial risk since partners' liability is limited to the amount contributed. Whilst an incorporator's investment in the start-up may be lost, an incorporator's home and other assets will in principle be protected although certain forms of incorporator's liability exist (e.g., in case of bankruptcy within three years due to insufficient equity foreseen at the moment of establishment).
- A limited liability company can serve as a vehicle for intellectual property to be pooled and protected. If intellectual property has been developed with a group of colleagues, a company enables the incorporators to allocate a share in the ownership of the company and regulate its use and income.

Any choice of business structure should be considered from a tax perspective. It is advisable to consult a legal and tax advisor for more detailed advice on which company structure is best suited to specific needs.

ENTERING THE COUNTRY

The cooperation agreement of 1 June 2022 between the Federal State, the Communities and the Regions implements a screening mechanism for foreign direct investment in Belgium. The Agreement, which is expected to take effect in 2023, intends to safeguard national security, public order, and the strategic interests of the Federal Government, the various Communities, and Regions. The cooperation agreement lays down the procedures and terms regarding the screening of foreign direct investments. A foreign investor is either a (i) natural person with its main residence outside the EU, (ii) an undertaking established outside the EU or (iii) every undertaking of which the ultimate beneficial owner has its residence outside of the EU. Foreign investments are classified into two types:

- The first type are investments that directly or indirectly result in the acquisition of at least 25% (which can be lowered to 10%) of the voting rights in companies or entities that are based in Belgium and whose business activities relate to the listed vital infrastructure, technologies, and raw materials that are essential for the interests relating to security and public order, the provision of critical input, access to sensitive information, the private security sector, freedom of press, and technologies of strategic interest in the biotechnology sector if they meet certain extra conditions;
- The second type are investments that directly or indirectly result in the acquisition of at least 10% of the voting rights in companies that are based in Belgium and whose business activities relate to the sectors of defense (including energy, cyber security, etc.) and whose annual turnover in the financial year before the acquisition of at least 10% of the voting rights was more than EUR 100 million.

BELGIUM

ENTERING THE COUNTRY, CONT'D

The screening process has three phases:

1. Notification: The parties must submit transaction documents to the Interfederal Screening Committee (ISC) secretariat for review. If information is missing, the ISC will notify the parties. The notification should include information on the ownership structure, investment value, products/services, activities, financing, and closing date.
2. Assessment: The ISC will review the file and determine if there is a risk to public order, security, or strategic interests. If no risks are identified, the parties can proceed with the closing of the transaction. This phase may take up to 40 calendar days.
3. Screening: If risks are identified, the ISC will further analyze the transaction and draft an advice for each government. A consolidated decision will be communicated to the parties, which can either approve the transaction with conditions or refuse it. The duration of this phase varies based on the complexity of the transaction and the number of governments involved.

Investors who fail to comply with the screening procedure, such as failing to notify or providing false information, may face fines of 10-30% of the transaction value. The ISC may still conduct an assessment and screening up to two years after acquiring voting rights, with a possible extension of three years in case of bad faith.

There are instances where structural modification or mitigating measures may suffice. These measures include guidelines for the transfer or sharing of sensitive information. The ISC may request access to confidential information related to the transaction, and it is important to ensure that this information is protected and not disclosed to unauthorized third parties. Other possible mitigating measures include ensuring that certain operations are located only in Belgium, and divesting all or part of the Belgian business. Locating certain operations in Belgium can provide assurance that sensitive information and operations are not accessible to unauthorized third parties outside of Belgium. Another option is to divest all or part of the Belgian business, which can reduce the level of control or influence that the foreign investor has over sensitive operations or assets in Belgium. These mitigating measures can help to alleviate the ISC's concerns about national security or public order, while still allowing the investment to move forward.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign which can be represented graphically and is able to distinguish the goods and services from other companies can be registered as a trademark.

Where to apply? Trademarks can be filed either with (i) the Benelux Office for Intellectual Property, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application of a Benelux trademark for the three Benelux countries (Belgium, the Netherlands and Luxembourg) is very similar to the procedure before the EUIPO. The Benelux Office for Intellectual Property ("BOIP") then reviews the application and registers the application for the trademark immediately if all minimum trademark requirements as mentioned above are met. As of the publication in the BOIP trademark register, the three months opposition period begins. Within this time period third parties can easily and at low costs oppose the trademark.

Duration of protection? IIf no oppositions are filed, the trademark registration remains valid for a ten-years- period counting from the filing date.

Costs? As per 2024, application costs for Benelux trademarks for two classes amount to €271 with €81 charged per additional class (exempt from tax).

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that the invention is novel, not obvious to a skilled professional and can be applied in industry.

Where to apply? Patent protection will be granted only per country, meaning that the applicant must register the patent in each country where protection is sought. Patent applications can be filed with either the Belgian Intellectual Property Office, European Patent Office (EPO) or WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs. The procedure for granting a Belgian patent is relatively straightforward, as the patent is granted regardless of the outcome of the examination of the patentability conditions. While the EPO conducts a novelty search, its results do not determine whether or not a Belgian patent is granted.

Duration of protection? The term of protection is in any case a maximum of 20 years from application.

Costs? As per 2024, application costs for Belgian patents at the Belgian Intellectual Property Office amounts up to €425 and must be maintained by annual fees. The fees for European and international applications vary depending on the choice of country for which it will be granted.

Employee invention? Patent law does not resolve the issue of ownership of patent rights to inventions realized by employees or officials. If there is no clear written arrangement, the court must rule in case of dispute. To determine who - employer or employee - enjoys the right to apply for a patent on the invention, the court will normally distinguish between three categories of inventions:

- Service inventions: these are the result of a research task that is part of the employee's normal duties (or of a specific task entrusted to him). The employer acquires the rights to this invention. The employee does have a moral paternity right to the invention.
- Dependent inventions: there is a demonstrable link between the company's activities and the invention, e.g. because the employee has used the employer's resources to arrive at his invention, such as machinery or company know-how, with or without permission. It is not clear who then becomes the owner of the invention. Case law sometimes designates the employer, and sometimes the employee. Even if the employee becomes the owner of the invention, he will often not be able to fully exploit it, due to obligations arising from compliance with trade secrets or from his employment contract. In any case, a paternity right is granted to the employee.
- Free inventions: these are inventions on the employee's own initiative, by his own means and outside his working hours. Since there is no connection to the work or the company, the employee naturally becomes the full owner of the invention.

Designs

What is protectable? Industrial or craft product or parts of it can be protected as design.

Where to apply? National designs may be registered with the Benelux Office for Intellectual Property. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. The scope and terms of protection are quite similar to those of Benelux design law. The Hague system for the international registration of industrial designs allows designs to be protected in several countries by filing a single application in a single language with the World Intellectual Property Organization ("WIPO") or a national office such as the Benelux Office.

Duration of protection? The term of protection is five years and can be renewed four times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? As per 2024, application costs for designs amount €150 (exempt from tax). Feesare degressive with multiple filing. In addition, fees of the legal representative apply.

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered, but are automatically created when certain conditions are met:

Copyright

What is protectable? Original expressions of the intellectual creation in a concrete form of an author are protectable under the Belgian Code of Economic Law (i.e., literary and artistic works). Copyright protection is granted immediately with the creation of a work. No registration and no label required.

Duration of protection? Copyright protection ends 70 years after the author has passed away.

Exploitation of copyright protected work? CCopyright owners have the exclusive right to exploitthe work and the indispensable right to be named as author. The most important property rights are the right to make reproductions of the work and the right to communicate it to the public. The author may however grant third parties non-exclusive or exclusiverights to use the work under a license.

Ownership of copyright on software in employment context? The basic principle here is that the employeris presumed to acquire the property rights to software, unless the employer and the employee have agreed otherwise. Thus, there is a legal presumption of transferof intellectual propertyrights to the employer.It is up to the employee to provide evidence that the presumption does not apply, for example because the work was not created under the employmentcontract.

Trade Secrets

What is protected? A trade secret refers to know-howand business information that is valuablebecause it is secret and intended to remain confidential. Appropriate non-disclosure measures must be taken to keep the information confidential e.g., marking information as trade secrets, implementing IT security measures, particularly access restriction and concluding NDAs. Trade secrets can cover a lot of different types of information, such as: a customerdatabase, work processes, technical knowledge, a concept, software, etc.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

Other specific rights may apply such as those on databases, geographical indications, industrial designs, etc.

DATA PROTECTION/PRIVACY

Since 25th May 2018 the General Data Protection Regulation ("GDPR") applies. The GDPR gives some leeway to EU Member States to implement a few provisions (implemented through the Belgian Act of 30 July 2018 on the Protection of natural Persons with Regard to the Processing of Personal Data) such as:

- **Child consent** - Consent from a child in relation to online services will only be valid if authorized by a parent. Belgium reduced the age from which a child may consent alone to the processing of his/her personal data in the context of online services from 16 years to 13 years.
- **Employees** - Belgium has not implemented any specific national rules (through an Act or collective bargaining agreement) as a result of the entering into force of the GDPR in relation to the processing of personal data of employees. Such processing is therefore based on legal obligations (such as social security legislation), the performance of the employment contract or the employer's legitimate interest. Existing specific employment rules may also apply to the processing, for example, in relation to camera surveillance, the introduction of new technologies or the monitoring of electronic communications.

Other relevant data protection legislation includes the Telecommunications Act of 13 June 2005, the Code of Economic Law and the Royal Decree of 4 April 2003 on the sending of advertising by e-mail. The latter may be briefly summarized as follows:

- **Cookies** – Cookies are only possible to use if: (i) clear and specific information has been provided to the individual regarding the purposes of the data processing and their rights, all in accordance with the general requirements of the GDPR; and (ii) the individual provides consent after receiving this information. These restrictions do not apply if consent has already been given by existing customers nor to cookies that are strictly necessary for a service requested by an individual. Lastly, users must be allowed to withdraw their consent free of charge.
- **Direct marketing by mail** - The Code of Economic Law prohibits the use of e-mails for advertising purposes without prior, free, specific, and informed consent of the addressees. Such consent can be revoked at any time, without any justification or any cost for the addressee. It is permitted to send e-mail for the purposes of direct marketing if the similar products and services exemption applies. The Code of Economic Law also prohibits direct marketing e-mails from being sent if: (i) the identity of the sender is disguised or concealed; or (ii) an opt-out address is not provided. The sender must also include the eCommerce information.

ARTIFICIAL INTELLIGENCE

Legislation

The European Union's Regulation 2024/1689 of 13 June 2024 laying down harmonized rules on artificial intelligence, commonly known as the AI Act, aims to regulate AI systems, prioritizing safety and adherence to fundamental rights. It adopts a risk-based approach, classifying systems into four categories depending on the level of risk, subjugating the providers, distributors and users of these systems to specific requirements. A conformity assessment procedure has also been introduced. GDPR-like penalty systems will be imposed by the supervisory authorities in each country.

Navigating the realm of artificial intelligence involves more than just the AI Act. Consider the impact of various laws like GDPR, amendments to the Product Liability Directive, and intellectual property regulations. While the AI Act plays a role, it is just one piece of the larger legislative landscape. Companies aiming to enhance their AI usage should broaden their focus beyond the AI Act, as it may not have a direct impact on your business. Belgian law that could potentially apply to AI can take many forms. In general, when applying existing laws and qualifying AI products or services, AI will be considered as a software or more generally a digital service.

ARTIFICIAL INTELLIGENCE, CONT'D

Intellectual Property

The use of personal data to train AI systems: Rules governing the use of personal data for AI system training are not explicitly outlined in Belgium. However, existing legal frameworks, such as the GDPR and sector-specific laws enshrining the constitutional principle of non-discrimination, could potentially be applicable.

Copyright protection of AI systems: Copyright law is dealing with two main questions with regard to AI:

- How can works created by AI be protected?
- Who can be held liable if copyright relating to a certain work is violated by an AI system?

Under Belgian law, copyright protection is enjoyed by the physical author who effectively creates the work. Such work must be in a concrete form (e.g., ideas cannot be protected, but texts or websites can) and it must constitute an original creation (which is understood as a human creation that is sufficiently original, in which the author included his personality and intellectual work).

Hence, the (human) author of a work created with the use of AI will enjoy copyright protection if a direct connection is established between his input (the efforts to create a concrete and original work) and the output (the work itself). The AI system itself, created by a human, will also enjoy copyright protection.

In principle, the copyrights on works created by employees in fulfilment of their employee obligations are held by the employee himself and not by the employer. Consequently, the employer cannot use or transfer these creations without the consent of the employee. To avoid this, the employer can include the transfer of copyrights in the respective employment agreement of the employee. This must be done expressly and in writing. Such a transfer can also be included in the work rules of the company, whereby it must be proven for the transfer to be valid that the employee gained effective knowledge of the transfer under the work rules. All these agreements must be drafted in clear terms, as, in case of doubt, they will be interpreted to the benefit of the employee. Moral rights, however, cannot be transferred.

However, the regime applying to copyrights on computer programs (software) and certain databases is different. For these types of work, unless agreed otherwise, the employer and not the employee will be presumed automatically to hold the copyrights (at least the patrimonial rights in relation thereto). This exception is thus important with respect to companies that develop AI and other related systems.

By contrast, a work that is created by a self-learning AI system may not be protected by copyrights in favour of the creator. After all: (i) it will not be created by a human author; and (ii) it will not show an element of creativity in the form of an inclusion of the author's personality in the work.

Trade secrets: Pursuant to Directive 2016/943 of 8 June 2016 on the protection of undisclosed know-how and business information (implemented by the Belgian Act of 24 August 2018), against their unlawful acquisition, use and disclosure, a trade secret: (i) is a secret that is not generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; (ii) has commercial value because it is secret; and (iii) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret (e.g. contractual confidentiality obligations, security measures).

If an AI system or similar technologies are kept secret and are not generally known by other persons dealing with AI technology, the provisions of this Directive and the transposed provisions of Belgian law may apply. More specifically, the company that holds the AI technology may act against unlawful acts such as unauthorised access to the documents or electronic files concerning the AI system, the copy thereof, or the breach of a confidentiality agreement. The owner of the technology can also act against third-party recipients of the trade secrets, provided that such third party, at the moment of receipt, uses or discloses a trade secret which was unlawfully obtained and where the third party had knowledge of or should have had knowledge of the unlawful character of the trade secret.

The legitimate owner of the trade secret may, amongst others, obtain a cease-and-desist order against the unlawful user of the trade secret and/or claim damages for all losses caused by the unlawful obtaining, use or disclosure of the trade secrets.

ARTIFICIAL INTELLIGENCE, CONT'D

Board of directors/governance

Management needs a basic understanding of the opportunities and risks associated with these technologies. When implementing AI, the board must conduct impact assessments, assess privacy risks, and ensure accurate data interpretation through sufficient testing.

With the AI Act, boards of companies using AI systems must ensure compliance. Directors should anticipate changes and challenges, such as data quality obligations and transparency requirements. Given GDPR-like sanctions are stipulated in the AI Act, directors should exercise due diligence by putting appropriate guardrails in place and maintaining robust documentation and audit trails.

AI can assist the board in processing and reviewing complex data. However, the board remains ultimately responsible for company management, including AI use. Directors could be held liable for AI mistakes due to a lack of oversight. Delegating decision-making powers to AI, especially in fully automated or autonomous systems, may complicate the board's monitoring function as the reasoning behind AI decisions may not always be clear.

Privacy and data protection

The rise of AI systems hinges on the availability of vast datasets. Consequently, data protection regulations like the GDPR will gain even more significance, attempting to govern the use of the extensive data essential for these technologies.

This shift introduces new risks for individuals and entities. AI systems, capable of complex data analysis, may lead to decisions that are challenging for individuals to comprehend or challenge due to unclear reasoning. Privacy loss, mass surveillance facilitation, and potential discrimination are concerns. Article 22 of the GDPR grants individuals the right to contest decisions made solely through automated processing.

Despite AI's opaque reasoning, transparency is crucial under GDPR principles. Explainable AI, providing insight into decision-making processes, is suggested to address the "Black Box" problem. However, the AI Act currently lacks transparency obligations for high-risk AI systems.

Ethical considerations surrounding AI, especially when handling sensitive personal data, require oversight in compliance with the law and evolving ethical guidelines. Boards of directors must supervise AI's use of personal data, necessitating data protection impact assessments.

Use in the workplace

Biases: Biases in AI systems have the potential to amplify and institutionalize existing human biases and inequalities. This can occur through the formalization of rules based on inadequate or outdated data, especially in hiring processes, leading to unfair employment decisions. AI programs may also contribute to harassment by making inappropriate comments about a worker's appearance, sex, or race, potentially resulting in legal consequences.

Autonomy and surveillance: The reliance on AI-informed decision-making in the workplace, particularly in hiring, can diminish workers' autonomy and representation, possibly standardizing worker profiles. Additionally, the legitimate control and monitoring of workers by employers using AI must respect the fundamental rights and well-being of workers, with the risk of discrimination when employing AI systems for surveillance.

Liability in AI-related dismissals: Liability in AI-related dismissals may be deemed manifestly unreasonable under Belgian Collective Labor Agreement (CLA) no.109. The use of AI in the workplace, considered a new technology with significant collective consequences, falls under Belgian CLA no.39. Employers with at least 50 workers must provide information and consult with workers' representatives on the social consequences before introducing AI. Failure to do so restricts unilateral termination if AI is employed for assessing worker performance.

ARTIFICIAL INTELLIGENCE, CONT'D

Liability

Legislation that applies to defective AI systems: Belgium currently lacks specific legislation addressing defective AI systems. However, existing regulations governing defective products or services may be applicable to AI systems. Notably:

- **Privacy and Data Protection:** given that AI systems often process personal data, defects in these systems may lead to privacy breaches or violations of data protection laws. In Belgium, the EU General Data Protection Regulation (GDPR) applies and imposes obligations on organizations handling personal data. In cases where a defective AI system results in unauthorized access, data breaches, or other privacy violations, affected individuals may seek compensation or other remedies under the GDPR.
- **Product Liability (Law of 25 February 1991):** defective AI systems could potentially fall under the jurisdiction of product liability laws in Belgium. Essentially, manufacturers may be held responsible for damages resulting from defects in their products. If an AI system qualifies as a product and is deemed defective, especially when integrated into a tangible item, the manufacturer may be held liable for any harm or damage inflicted on individuals or property.
- **Consumer Protection and Legal Warranty:** the handling of defective AI systems may also be approached from a consumer protection perspective in Belgian law. Specifically, the incorporation of EU Directive 2019/770 and EU Directive 2019/771 within Article 1649bis to 1649octies and Book III, Title VIbis of the old Belgian Civil Code is noteworthy. These provisions assess the conformity of digital content or services, including AI systems, against both objective criteria (meeting general expectations) and subjective criteria (compliance with consumer agreements). In instances where an AI system is deemed non-conforming, consumers have the right to pursue remedies such as bringing the AI system into conformity, obtaining a price reduction, or terminating the contract.

Civil and criminal liability in case of damages caused by AI systems: In Belgium, the legal landscape concerning civil and criminal liability for damages caused by AI systems lacks specific rules, relying instead on general provisions of the law.

- **Manufacturer's Liability:** The Law of 25 February 1991, aligning with EU Directive 85/374/CEE, governs product liability in Belgium. Under this framework, manufacturers of AI systems may be held accountable for harm or damage caused by defects in their products, covering both tangible goods and software.
- **Seller's Liability and Warranty Regime:** Belgian law, articulated in Article 1582 et seq. of the old Civil Code, imposes an obligation on sellers to provide goods in conformity with the agreement. Sellers can be held liable for hidden defects and non-conformities, with additional responsibilities in B2C sales where consumer protection rules may restrict the seller's ability to limit liability (Article 1649bis of the old Civil Code).
- **User's Liability in Contract:** General contract law rules, such as Article 5.230 of the New Civil Code, hold the persron using an item to fulfill contractual duties liable for breaches caused by defects in the item used. This principle gains relevance in scenarios where contractual services involve the use of a (defective) AI system, such as automated asset management services. Parties may deviate from this principle through contractual agreements.
- **User's Liability in Tort:** Under Articles 6.12 and following of the Belgian Civil Code, users of defective items may bear liability for damages caused by the item's defect, even without direct wrongdoing. While traditionally applied to tangible goods, this concept could extend to damages caused by a tangible good incorporating an AI system (e.g., a robot). Users may also be held liable if they wrongfully employ a (non-defective) AI system to cause harm (Articles 6.5 and 6.6 of the Belgian Civil Code).

Concerning criminal liability, there are no specific provisions addressing damages caused by AI systems, making it challenging to establish accountability. The application of existing criminal legislation in cases involving AI-induced damages awaits clarification from the Belgian legislator and the courts.

BELGIUM

EMPLOYEES/CONTRACTORS

General – In Belgium, the employment relationship is largely governed by mandatory employment law and applicable collective labour agreements (CLAs), which apply automatically. The individual employment agreement mainly records role-specific terms (e.g., position, pay, start date, working time arrangements), while day-to-day workplace rules are set out in the company's work rules (arbeidsreglement), which must be made available to employees. Neglecting to include these provisions must be avoided at all costs since the Belgian legislator has imposed high fines and sanctions on their infringement. A company may also conclude an independent contractor agreement – freelance contract or contract for work and services – instead of an employment agreement. What fundamentally distinguishes the self-employed worker from an employee is the existence or absence of a relationship of authority in the performance of his/her professional activity. For these contracts, the protective provisions of labor law do not apply.

Mandatory rules of Belgian labor law - Posting of workers or secondment

Posting occurs when a company based abroad temporarily employs its employees in another country (here Belgium). Several formalities are important when employing personnel in Belgium. It is necessary to verify that the employee has access to the Belgian labor market, which may require a labor card. Checking the conditions of entry to the territory and residence is also essential, although this is usually not a problem for Belgian and other EU citizens. In addition to applying for an A1 form, a LIMOSA notification must be submitted for personnel employed in Belgium so that the Belgian authorities are aware of the employment. Furthermore, a liaison must be appointed as a contact point for questions from the Belgian labor inspectorate regarding posting. Additional formalities may apply in specific sectors such as construction or meat processing. When posting within the EU, the principle is that a level playing field applies to prevent unfair competition. The foreign employer posting workers to Belgium must therefore comply with mandatory Belgian employment conditions, including regulations on working time, wages, public holidays, vacation, welfare, protection of pregnant women, non-discrimination, temporary employment, posting of workers and conditions from generally binding collective bargaining agreements. Belgian rules should be applied unless conditions in Belgium are more favorable to the posted worker.

Prohibited practices – Hiring out of workers

Hiring out of workers refers to the situation in which an employee is "lent" by his employer to a user, who employs the employee and exercises over him (part of) the employer's authority that normally belongs to the actual employer. By employer authority we broadly understand the exercise of management and supervision and the giving of instructions. Because such hiring out of workers can lead to abuses, it is prohibited in Belgium to make personnel available. This means that it is not allowed to give instructions, manage or supervise employees of another employer. In practice, the boundaries between employers are sometimes blurred, for example when (sub)hiring in sectors such as construction, IT projects or maintenance services. Exceptions to the prohibition are possible if the instructions relate to welfare at work, or subject to strict conditions such as a written agreement with detailed instructions, compliance with the agreement in practice, and retention of employer authority. It is crucial to make clear agreements with the customer and comply with them. Derogations are also possible in the case of temporary workers through authorized Belgian temporary employment agencies, or with prior notification to the inspection or permission from the inspection after agreement between social partners. Breaches of the prohibition may result in indefinite employment contracts between the user and posted workers, joint and several liability for social security contributions and financial penalties for the employer.

EMPLOYEES/CONTRACTORS, CONT'D

Prohibited practices – Sham self-employment

Startups often work with self employed consultants because the model can be flexible and efficient for both the company and the consultant. That flexibility only works if the relationship is genuinely independent in practice. It is therefore important to have a solid consultancy agreement and, just as importantly, to ensure the consultant is actually treated as autonomous, with control over how the work is organised and performed.

In Belgium, a person engaged as self employed who in reality performs their professional activity under the authority of the client may be requalified as an employee, with substantial consequences. The Social Security authorities can claim payment of both employer and employee social security contributions for the relevant period, potentially increased by late-payment interest and a one-off surcharge of 10%. The client/employer cannot recover the employee contributions from the requalified employee.

Requalification also opens the door to employment-law claims. The individual may seek retroactive payment of salary elements and benefits that would have been due as an employee, such as end-of-year premiums, holiday pay, and salary increases or indexation arrears, backdated to the start of the services. The deemed employer may additionally be liable for double holiday pay and end-of-year premiums, for which a five-year limitation period applies, and other mandatory rules of Belgian employment law can become applicable, including rules on termination. The limitation period for Social Security claims is generally three years, and can extend up to seven years in case of fraud, while the employee typically has five years to bring claims.

No work for hire regime – it is important to be aware that there is no general "work for hire" doctrine in Belgian copyright law. This means that if you commission someone to create a work for your startup, such as a logo or website design, the individual author(s) will automatically hold the copyright to that work. However, it is possible to transfer the copyright to your startup if certain conditions are met. Specifically, if your startup is active in the non-cultural sector or in advertising, the commissioned work is intended for such activity, and the transfer of rights is explicitly agreed upon, then the copyright to the commissioned work can be transferred to your startup. It is important to have a clear and explicit agreement in place to ensure that your startup has the necessary rights to use and commercialize the commissioned work.

Intellectual property: employer or employee? – While the law around intellectual property rights in software, databases, and topographies on semiconductors (chips) is based on copyright, the issue of creations in an employment context is regulated completely differently. The basic principle here is that the employer is presumed to acquire the property rights to software, databases, and topographies unless the employer and the employee have agreed otherwise. Thus, there is a legal presumption of transfer of intellectual property rights to the employer. It is up to the employee to provide evidence that the presumption does not apply, for example because the work was not created under the employment contract.

Registration with social security – Every employer must register employees with a social insurance carrier, have work accident insurances in place, and pay a certain monthly amount based on the employee's remuneration into the severance pay system.

Termination of protected workers – The employer (or the employee) can immediately terminate the employment relationship without notice or compensation when there is an urgent reason. Urgent reason means the serious fault that makes any further professional cooperation between the two parties immediately and definitively impossible. The party invoking the urgent reason must prove its existence. Certain employees are protected from being fired except for urgent or economic reasons. These employees include pregnant women, employees on career breaks or time credits, employees who have filed a complaint of violence or harassment, and union delegates or employees exercising a political mandate.

Specifically, the pregnant worker may not be dismissed from the moment the employer was informed of the pregnancy until one month after the end of post-natal maternity rest, except for reasons foreign to the physical condition resulting from pregnancy or childbirth. Similarly, employees on certain types of leave, including adoption leave and leave on the occasion of the birth of a child, may not be dismissed except for reasons foreign to the leave.

In addition, employees who have filed a complaint or legal action regarding equal treatment, violence, harassment, discrimination, or other protected categories may only be dismissed for reasons that are foreign to the complaint or claim.

If an employer fails to comply with these protections and dismisses an employee without proper cause, the termination is unlawful, and the employer will owe a termination fee in addition to a lump sum protection fee. These fees are not cumulative with compensation for manifestly unfair dismissal. It is important to understand and comply with these protections to avoid legal and financial consequences.

EMPLOYEES/CONTRACTORS, CONT'D

Language requirements - Language requirements in Belgium are a complex matter. As a basic principle, it must be kept in mind that Belgium is divided into four language areas: the Dutch-, French-, German-speaking areas and bilingual area of Brussels-Capital region. To determine the applicable language regime, the area in which the company's operating headquarters is located is decisive. In Brussels, the language of the employee is defining. The operating headquarters was defined by the Constitutional Court as any establishment or center of activity with some constancy and to which the employee is attached. In principle, it is at the operating headquarters that social contacts between the parties take place; in other words, it is usually the place where orders and instructions are given to the employee, where communications are made to him and the place where the employee addresses his employer. If certain employment agreements or documents are not drafted in the required language, the employer may not be able to use them in relation with his employees. The employees can only apply these to their benefit. Nonetheless, an informal English translation of the contract can always be drafted.

CONSUMER PROTECTION

The core provisions in relation to consumer protection are laid down in the Code of Economic Law and the Civil Code. Some important themes may be briefly summarized as follows:

Guarantee Rules – The supplier is obliged to provide the consumer with products (including digital content and services) in conformity with the contract, meeting certain conformity requirements. These are both subjective conformity requirements (as set out in the contract) and objective conformity requirements.

The guarantee period is in principle two years from the time of delivery of the goods. This period applies to digital content and services acquired through a single supply transaction (or series of individual supply transactions), such as e-books, online film purchases, or music downloads. However, the guarantee may be extended in certain cases, in particular where the contract provides for the continuous supply of digital content and services over a period of time (e.g. subscription to streaming or cloud services for a period of several months or years, membership of a social media platform for an indefinite period of time).

Distance selling contracts – The Code of Economic Law foresees various information obligations of the trader and a right of withdrawal from any contract within 14 days without giving any reason. Consumers' right of withdrawal is automatically extended, save for a number of exceptions, for up to one year in case they are not sufficiently informed.

BELGIUM

TERMS OF SERVICE

Before a consumer is bound by a contract, the company must deliver clear and understandable information about the main characteristics of the product (good or service) that the consumers wishes to purchase, the total price, the payment methods, consumer rights, etc. and the terms of service. The terms of service are enforceable if consumers have had the possibility to read, print and store them upfront and (explicitly or tacitly) agreed to the terms (preferably by ticking a box).

There is no language requirement for general terms and conditions. However, you are required to provide your general terms and conditions in an understandable language, otherwise they are not legally valid.

Both consumers and businesses are protected against unfair contractual terms that are manifestly to their disadvantage and impair minimum contractual rights. The Code of Economic Law has a blacklist for contractual terms with consumers that are null and void in any case. For example, clauses by which the company grants itself the right to unilaterally increase the price in contracts of fixed or indefinite duration, without objective criteria and clauses by which the company grants itself the right to unilaterally determine or change the delivery period.

Contractual terms with another business are subject to a similar blacklist in addition to a grey list presumed to be unlawful unless proven otherwise and a general standard of unfairness. Examples of the blacklist include giving the company the unilateral right to interpret certain terms of the contract (e.g., termination rights) or, in the event of a dispute,to cause the other party to waive any remedy against the company on beforehand.

In any case, the contract remains binding on the parties if it can survive without the unlawful terms.

TAX/FUNDING

Tax Benefits for investing in start-ups and scale-ups – Belgium offers a Tax Shelter incentive for individuals investing in start-ups (companies less than four years old) and scale-ups (companies between five and ten years old). Investors can receive a tax reduction of 30% to 45% for start-ups and 25% for scale-ups, with a maximum eligible investment of €100,000 per year. Belgian residents and qualifying non-residents can apply, except for business leaders investing in their own companies. Investors must hold shares for 48 months (or 12-48 months for scale-ups) to maintain tax benefits. The tax reduction must be declared using specific tax codes, and supporting documents are required. Failure to meet conditions can result in a partial tax reclaim.

TAX/FUNDING, CONT'D

Capital gains tax and transfer tax on share sale – The corporate income tax (CIT) base in Belgium is determined on an accrual basis, encompassing worldwide income minus allowable deductions, and applies equally to companies and permanent establishments (PEs). All income received by a company is generally considered business income, with the tax base derived from Belgian GAAP financial statements. The standard CIT rate is 25%, applicable to both Belgian companies and the Belgian PEs of foreign firms.

There remains no transfer tax, stamp duty, registration duty, or VAT on the transfer of shares in a Belgian company. However, from 1 January 2026 Belgium introduces a capital gains tax on "financial assets" ("meerwaardebelasting"), which will generally apply to gains realized by Belgian-resident individuals and non-commercial legal persons (such as non-profit associations and private foundations) on a sale of shares for consideration. Non-residents are not covered and commercial companies remain taxed under the corporate income tax, so they are outside the scope of this new measure.

A sale of shares (an onerous transfer) triggers the capital gains tax. Gifts, transfers upon death, partitions, and contributions to a marital community fall outside scope.

Under the standard regime, gains are taxed at 10%, with an annual exemption of EUR 10,000 per person (indexed and, for spouses under a community property regime, doubled where the gain relates to joint property). Unused exemption can be carried forward for up to five years up to EUR 15,000.
Where the seller holds a significant shareholding of at least 20% at the moment of the transfer (measured strictly per person), a specific regime applies: the first EUR 1,000,000 of gains over a rolling five-year period is exempt, and amounts above that are taxed at progressive rates of 1.25% (EUR 1,000,001–2,500,000), 2.5% (EUR 2,500,001–5,000,000), 5% (EUR 5,000,001–10,000,000) and 10% beyond EUR 10,000,000.

A particular 16.5% rate applies to gains above EUR 1,000,000 on shares representing rights in a Belgian company when sold to a legal person with its real seat outside the EEA. If shares are sold to a company controlled by the seller (alone or together with spouse and family up to the second degree), the gain is taxed as an "internal gain" at 33%.

Separately, gains arising from speculation or abnormal management of private wealth remain taxable as miscellaneous income at 33%.

Only gains realized from 1 January 2026 are taxed. Historical gains built up to and including 31 December 2025 are ring-fenced. The gain equals the sale price less the acquisition value, with specific rules to fix the acquisition value as at 31 December 2025: for listed securities, the last closing price of 2025; for unlisted shares, defined methods (including a formula based on equity plus four times EBITDA of the last financial year before 1 January 2026, or an independent valuation by a statutory auditor or certified accountant) with the possibility to choose the most favorable option. For the five years up to 31 December 2030, if the historical acquisition cost is higher than the 31 December 2025 value, that higher historical cost may be used.

In principle, Belgian financial institutions withhold the tax at source under the standard regime, but share sales outside the bank circuit (including significant shareholding and internal gains) are reported via the tax return.

A general anti-abuse rule may apply, for example to sales of shares in companies with excess cash.

The legislative texts are still in preparation and have not yet been enacted.

TAX/FUNDING, CONT'D

Impact summary for the different parties

- **Startups / Founders (Belgian-resident individuals):** Founders typically hold ≥20% (significant shareholding), so they benefit from the protective regime (first EUR 1,000,000 exempt over 5 years, then very low progressive rates). The step-up at 31 December 2025 fully protects pre-2026 value. Company level unchanged (no tax on transfers, outside scope). Overall modest impact but still founder-friendly compared to standard 10%.
- **Business angels (Belgian-resident individuals):** Usually under standard regime → 10% above small exemption (EUR 10,000/year, carry-forward limited). Reduces returns vs. pre-2026 (0%). Some may shift to holding structures or seek higher stakes to access significant regime. Non-residents untouched.
- **Venture capital funds:** Almost always commercial companies (e.g., BV/SRL, Privak) → fully outside scope, taxed under CIT with participation exemption unchanged. Non-resident funds exempt. No direct impact; relatively more attractive vs. individual angels.

Withholding tax on dividends and interest – Dividends in Belgium are generally subject to a 30% withholding tax, though reduced rates may apply under specific conditions. For example, SMEs can benefit from the VVPRbis regime, which reduces the rate to 15% after three yearsif certain requirements are met. Significant changes to this tax regime are upcoming. Additionally, the Parent-Subsidiary Directive provides an exemption for qualifying corporate investors, allowing tax-free dividend distributions between affiliated companies under EU rules. Interest on loans is also typically subject to a 30% withholding tax when paid to private investors. However, exemptions exist for specific regulated structures, such as private PRICAFs, which benefit from preferential tax treatment under Belgian law.

Sales tax rate – A sales tax rate (VAT) of 0 per cent, 6 per cent, 12 per cent and 21 per cent applies in Belgium, depending on the product. The applicable rate for digital products and services is in principle 21 per cent. Income from digital products (such as speculation on tokens and crypto currency) may be taxed at 33 per cent on gains made, depending on the circumstances.

Tax Implications of Hosting Servers or Platforms Across Jurisdictions – The relevant criterion to determine whether or not a foreign company is active in Belgium depends on whether the activity concerned (such as placing a server, platform or metaverse) in Belgium can be seen as a 'permanent establishment'. The US concept of 'being engaged in trade or business' does not apply. The term 'permanent establishment' will depend on the circumstances of the activity and on the definition provided in the tax treaty between Belgium and the country of the foreign entity, if available. Generally, this is defined as the fixed place of business through which the business of an enterprise is wholly or partially carried on.

Electronic invoicing – The content of an invoice is regulated by law, which also applies to electronic invoices. E-invoicing is generally allowed, provided that the customer agrees to receive its invoice electronically. From 1 January 2026, every company will be obligated to electronically invoice. It must further be made sure that the electronic invoice is authentic, readable and the integrity of its content is maintained. It is also important to take Belgian language rules into account: the invoice must be provided in the language of the region in which the company's seat is located (Dutch in Flanders, French in Wallonia, Dutch or French in Brussels). This language must also be maintained if an invoice is provided to another region within Belgium or outside the European Economic Area. Within the European Economic Area, a copy of the local invoice in another language will also be declared valid. In practice, multilingual invoices are often used. Copies of the invoices need not be provided to the tax authority or other agency on a regular basis, but must be kept for at least seven years to remain available during tax inspections.

TAX/FUNDING, CONT'D

Tax credit and incentives – Belgium's investment deduction regime has been significantly revised under the Law of 12 May 2024, effective for investments made as of 1 January 2025. The new regime introduces three distinct tracks: the general track, which allows SMEs to benefit from an ordinary investment deduction of 10% or 20% for certain digital investments; the targeted track, offering a higher deduction rate of 40% for SMEs and 30% for larger companies on specified thematic investments, provided no regional aid is requested; and the technology track, granting a deduction of 13.5% (one-off) or 20.5% (spread, excluding patents) for investments in patents and environmentally friendly R&D projects. Taxpayers must select only one track per fixed asset, and the deductions are now fixed rather than subject to annual indexation. Additionally, companies investing in patents and R&D may opt for a refundable tax credit instead of the investment deduction, equal to the deduction amount multiplied by the standard corporate income tax (CIT) rate of 25%, with the option to carry it forward. A partial wage withholding tax (WHT) exemption remains available for qualifying R&D employees, subject to stringent compliance requirements, including prior notification to Belspo. However, this exemption cannot be combined with the R&D tax credit for the same expenses. The Innovation Income Deduction (IID) allows an 85% deduction on net qualifying IP income, resulting in an effective tax rate of 3.75%, covering income from patents, software, process innovations, and IP-related settlements. From tax year 2025, companies may convert part or all of the IID into a non-refundable tax credit, which can be carried forward. The impact of this measure will be reviewed annually from 2026 onwards, focusing on budgetary costs and Belgium's competitive position.

How to fund your business in Belgium – Early-stage financing, also known as seed investment, for start-ups can be sourced from various channels, each with unique characteristics and documentation requirements. Entrepreneurs can use their own funds, which require no formal documentation but benefit from clear record-keeping. Involving family, friends, and fans is another option, with different documentation requirements depending on the arrangement—co-shareholders need formal agreements outlining ownership terms, borrowing requires clear loan agreements, and win-win loans must be documented with specific conditions, as they offer government-backed tax discounts. The win-win loan scheme is supported by the local government. The Flemish government for example provides lenders with an annual tax discount of 2.5% on loans up to EUR 75,000, with borrowers able to access up to EUR 300,000 for terms between 5 to 10 years. Crowdfunding allows businesses to secure funding from the general public or private investors through online platforms, typically requiring detailed project descriptions, financial plans, and equity or reward structures. Venture capital, sourced from public and private investors such as business angels, necessitates comprehensive investment agreements specifying terms and expected returns. Corporate loans, offered by regional public institutions in Flanders, Brussels, and Wallonia, support economic initiatives and require detailed loan agreements that may be subordinated or non-subordinated. Bank financing includes investment loans from the European Investment Bank (EIB), which fund tangible and intangible investments within the EU under EUR 25 million, and guarantee schemes, which involve agreements outlining government-backed guarantees. Non-bank financing, such as leasing, is available through accredited leasing companies and requires formal agreements specifying on-balance and off-balance options. Each financing method comes with specific requirements, and entrepreneurs should carefully assess the terms, seeking legal and financial expertise to ensure compliance with financial regulations.

TAX/FUNDING, CONT'D

Subsidies for SMEs in Belgium – The Belgian government offers a special tax exemption scheme, known as the SME scheme, designed to simplify VAT obligations for small and medium-sized enterprises (SMEs). To qualify, a business must be established in Belgium, have an annual turnover not exceeding €100,000 within the European Union, and ensure that turnover in other EU member states does not surpass their respective national thresholds for exemption. Additionally, the business must engage in transactions that are not excluded from the exemption scope. Eligible businesses under this scheme are exempt from charging VAT on their sales and cannot deduct input VAT on purchases related to exempt activities. More information can be found on https://finance.belgium.be/en/enterprises/vat/international/sme-scheme#q7.

Subsidies for SMEs in Flanders – Flanders offers robust support to small and medium-sized enterprises (SMEs) through initiatives by Flanders Innovation & Entrepreneurship (VLAIO). The SME e-wallet is a web application that provides annual subsidies of up to €7,500 to enhance business operations. This aid can be utilized for training programs—such as language, management, computing, or communication courses—and for advisory services like communication plans, investment analyses, or market studies. Small enterprises receive a 30% subsidy, while medium-sized enterprises receive 20%, applicable to both training and advisory services. Additionally, the SME growth subsidy supports strategic initiatives by offering up to €50,000 per calendar year. This subsidy covers 50% of expenses related to acquiring external strategic advice or recruiting personnel with essential strategic expertise. Each individual advice or recruitment trajectory is eligible for a maximum of €25,000. These programs are designed to equip SMEs with the necessary resources and knowledge to achieve sustainable growth and competitiveness in Flanders and beyond. More information can be found on https://invest.flandersinvestmentandtrade.com/en/investing-in-flanders/grant-incentives/aid-developing-and-growing-your-sme.

Subsidies for SMEs in Brussels – The Brussels-Capital Region offers a range of subsidies to support small and medium-sized enterprises (SMEs) in improving their operations. These subsidies are divided into three key categories: Investment Subsidies, which help businesses carry out works on their premises, purchase property related to their activities, and acquire equipment to improve accessibility or safety; Expertise and External Services Subsidies, which assist SMEs in hiring external experts for strategic business analysis, e-commerce development, website security, and other consultancy services; and Recruitment and Training Subsidies, which support recruitment, employee training, personal development for business owners, and skills recognition initiatives. By utilizing these subsidies, SMEs in Brussels can effectively invest in infrastructure, access specialized expertise, and strengthen their workforce. More information can be found on https://economy-employment.brussels/news-new-subsidies-SME-2024.

Subsidies for SMEs in Wallonia – The Walloon government offers investment allowances to both SMEs and large companies to support the creation or expansion of business units in the region. These allowances are granted based on criteria such as the type of company, the location of the investment, and job creation potential. Companies must apply before making any binding commitments related to investments and start their investment programs within six months of approval. Specific support is also available for projects focused on sustainable energy, environmental protection, and co-financed EU funds. More information can be found on https://www.wallonie.be/en/demarches/applying-investment-allowance-sme-or-large-company.

WHAT ELSE?

Regulatory and procedural requirements of digital versus brick-and-mortar businesses – No particularities apply to digital companies compared to 'normal' companies, and digital businesses can therefore be established in the same way. In principle, there is no authorization or permit required to provide digital content and services, unless the company is operating in a regulated sector (e.g., financial services or gambling).

Government approach – Belgium is a highly digitalized and modern country with many innovative businesses. It ranks high in the list of most innovative economies in the world and has one of the best digital infrastructures in Europe. The federal and regional governments support further growth of the technology sector with national and regional support strategies and plans on technologies such as artificial intelligence, Internet of Things, robotics and cybersecurity. There is a wide array of tax incentives and subsidies available for research and development and investment in innovation. Universities and other educational institutions also obtain important funding to provide support to digital businesses, train the next generation of technology specialists and conduct important research on technological developments. Digital business is, therefore, seen as a positive factor that strongly contributes to the economy and therefore its growth must be stimulated.

Domain name registration procedure - At international level, the non-profit organization Internet Corporation for Assigned Names and Numbers (ICANN) is responsible for the management of domain names. A domain name must be requested from an authorized agent. At European level, several regulations govern the legal framework surrounding domain names with the .eu extension. EURid, a Belgian non-profit association with its head office in Brussels, takes care of the management. These domain names can only be requested by European Union (EU) citizens or persons or companies who have their residence or establishment within the EU. At national level, the Belgian Association for Internet Domain Name Registration (DNS Belgium) is only responsible for the management of domain names – not for requesting the domain name; that must be done through an authorized agent or 'registrar' who has entered into an agreement with DNS Belgium. The nationality of the party requesting the domain name is irrelevant, nor are there any other special restrictions. Foreign agents can request the registration of a domain name from DNS Belgium. Likewise, Belgian agents can addressrequests from Belgian and foreign customers to the relevantmanager in anothercountry.

It is interesting to note that the Belgian Data Protection Authority and DNS Belgium have concluded an agreement, dated 1 December 2020, pursuant to which certain restrictions can be placed on websites with a Belgian domain name that do not comply with the General Data Protection Regulation (GDPR), even possibly leading to a cancellation of the domain name. This procedure makes it possible to redirect .be domain names to a warning page of the government body that has the legal authority to act against serious breaches of certain rules of law. For instance, if the processing of personal data, via a website linked to the domain name, constitutes a violation of the GDPR, the Data Protection Authority can issue an order to freeze or stop that processing. Also, subsequently DNS Belgium can revoke the website linked to the .be domain name.

Funding instruments – Belgian corporate law provides a wide array of instruments to finance a company. Convertible notes are for instance a type of debt instrument that converts into equity at a later date, usually at the time of a future financing round. This allows start-ups to raise capital without immediately diluting equity, and provides investors with the opportunity to convert their investment into ownership of the company at a later date. Convertible notes have become a popular way for start-ups to raise seed funding and bridge financing.

Warrants and bonds are another important aspect of start-up financing. A warrant is a promise made by the company to the investor that certain facts are true, and if they are not true, the company will take steps to rectify the situation. Bonds, on the other hand, are legally binding commitments that the company makes to the investor. Both warrants and bonds can be included in the terms of the investment agreement, and are typically used to provide investors with greater protection and security for their investment.

Start-ups should carefully consider the terms and conditions of each instrument, and work with experienced legal counsel to ensure that they are properly structured and executed.



BOSNIA AND HERZEGOVINIA

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BOSNIA AND HERZEGOVINA

LEGAL FOUNDATION

Bosnia and Herzegovina (**BH**) is complex and decentralized state, and it consists of two entities and one self-governing administrative unit:

- Federation of Bosnia and Herzegovina **(FBH)**;
- Republika Srpska **(RS)**, and
- Brčko District of Bosnia and Herzegovina (**BD**) (FBH, RS and BD together referred to as **Entities**).

Entities constitute separate jurisdictions which in some matters hold exclusive competence to legislate while some matters are regulated at state level. A minor part of the competencies is delegated to the lower governance units such as cantons, municipalities and cities. For the purpose of this guide, we have given unified answers where appropriate, whereas we have separately emphasized any relevant differences in the legislation.

BH legal system is a civil law system that relies on sets of codified legal norms in the field of public, private and criminal law with the BH Constitution as its highest authority.

BH public law covers the relationship between individuals and public authorities.

BH private law governs the relationship between individuals and is codified in various laws. The main legislation in this field is the FBH Law of Contracts and Torts, RS Law on Contracts and Torts and BD Law on Contracts and Torts, with various laws for each specific field (e.g., family, employment, real estate, company law, intellectual property).

BH criminal law is codified on state and Entities level. Material provisions are regulated by (i) BH Criminal Law, (ii) FBH Criminal Law, (iii) RS Criminal Law and (iv) BD Criminal Law, depending on the type of criminal acts committed. Criminal procedure is regulated by (i) BH Criminal Procedure Law, (ii) FBH Criminal Procedure Law, (iii) RS Criminal Procedure Law and (iv) BD Criminal procedure, depending on the court before which the criminal proceedings are being conducted.

Applicable criminal laws are in the main part aligned. In addition to the abovementioned, execution of sanctions, treatment of minors in the criminal procedure, witness protection etc. are regulated by specific legislation.

CORPORATE STRUCTURES

Business activities can be performed in several corporate structures prescribed by applicable legislation in BH.

Limited liability company (društvo sa ograničenom odgovornošću – d.o.o.)

The most common corporate structure for startup companies is the Limited liability company **("LLC")**.

The laws regulating LLC are FBH Companies Law, RS Companies Law and BD Companies Law.

The main characteristics of LLC:

- it can be established by one or more domestic or foreign individuals - natural persons or legal entities;
- the minimum share capital is BAM 1,000.00 (approx. EUR 500) in FBH and BAM 1.00 (approx. EUR 0.50) in RS and BD (the share capital must be paid before the incorporation of the company before the court);
- LLC is fully liable with its all asset for its obligations, and this liability does not transfer to the shareholders except in the cases of piercing the corporate veil;
- the shares in LLC are transferable;
- main governing bodies of the LLC include shareholders assembly and management board.

The cost of the incorporation may vary depending on the seat of the company.

Entrepreneur (obrtnik/preduzetnik)

Entrepreneurs are natural persons registered with the competent registries in Entities for performance of business activities that are fully and personally liable for all obligations incurred in connection with the performance of their business activities, with all of their property (personal and accrued through performance of business activities).

For small businesses this form is very common due to the straightforward incorporation procedure and lower costs involved. Usually, after reaching a certain level of expansion, entrepreneurs change the corporate structure to limited liability company.

BH offers different incentives for startups under certain conditions. Incentives for the agriculture and IT sectors are the most common.

BOSNIA AND HERZEGOVINA

ENTERING THE COUNTRY

The BH Law on Foreign Investment Policy governs foreign investment. Under this law, foreign investors are granted the right to invest under the same conditions and in the same manner as domestic investors. However, there are exceptions in certain sectors where the involvement of foreign capital is restricted, and it may not exceed 49% of the company's share capital (in industries such as sale and production of arms, ammunition and explosives, and media), without government approval.

Foreign investors have the right to transfer abroad, freely and without delay, in freely convertible currency, proceeds resulting from their investments in BH, including but not limited to:

- gains from investments received in the form of profit, dividends, interest and other forms;
- funds earned after the partial or full liquidation of the investments in BH or from the sale of equity or proprietary rights;
- compensation received in case of expropriation or measures with similar consequences.

Aforementioned transactions are carried out through commercial banks upon fulfilment of all tax and other statutory liabilities with respect to public revenues in BH.

Foreign investors are protected against nationalization, expropriation, requisition, or measures having similar effect.

INTELLECTUAL PROPERTY

BH law recognizes various intellectual property rights including (i) trademarks, (ii) patent and (iii) industrial design as most relevant for start-ups.

Trademark

What is protectable? Any sign suitable for distinguishing the goods and/or services of one participant in economic circulation from the same or similar good and/or services of another participant in the economic circulation.

Where to apply? Trademarks can be filed with the BH Intellectual Property Institute (**BH IPI**). Trademarks granted under the provisions of the BH legislation are only effective in the territory of BH, however the same trademark may be simultaneously protected in several countries in case the goods and/or services will be marketed in other countries, provided that it is internationally registered, for which filing with the World Intellectual Property Organization (**WIPO**) through the BH IPI will be needed.

Duration of protection? Trademark protection lasts 10 years from the date of filing the application. It can be renewed an unlimited number of times for 10-year periods, with payment of the corresponding fees.

Costs? The trademark application fee is BAM 50 (approx. EUR 25) for up to three classes.

BOSNIA AND HERZEGOVINA

INTELLECTUAL PROPERTY

Patents

What is protectable? Any invention in any field of technology in case it meets the following requirements: (i) novelty, (ii) inventiveness and (iii) industrial applicability.

Where to apply? Patent application is filed with the BH IPI.

Duration of protection? Patent protection lasts 20 years from the date of filing the application, while for consensual patent the term of protection is 10 years.

Costs? The patent application fee is BAM 60 (approx. EUR 30).

Industrial Design

What is protectable? Appearance of a product, meaning the two-dimensional or three-dimensional appearance of the whole or a part of a product resulting from its features, in particular the lines, contours, colors, shape, texture, and/or materials of the product itself.

Where to apply? Industrial design applications are being filed with the BH IPI.

Duration of protection? The validity period for industrial design is 5 years from the date of filing the application and it can be renewed 4 more times.

Costs? The industrial design application fee is BAM 30 (approx. EUR 15).

DATA PROTECTION/PRIVACY

The main law governing data protection in BH is BH Law on Personal Data Protection (DPL) from 2025. By adopting the DPL, data protection law in BH has been aligned with the GDPR.

Personal data is defined as any information related to the natural person that is identified or identifiable.

In accordance with the DPL the personal data must be:

- lawfully, fairly and transparently processed;
- collected for specific, explicit and lawful purposes and may not be further processed in a way that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- processed data should be accurate and, where necessary, kept up to date, and incorrect and incomplete data must be deleted or corrected;
- stored in a form that allows the identification of the data subject and no longer than is necessary for the purposes for which the personal data are processed;
- processed in a manner that ensures adequate security of personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage by applying appropriate technical or organizational measures.

The data processing is lawful only if at least one of the following conditions are met:

1. the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
2. processing is necessary for the performance of a contract to which the data subject is a party or to take action at the request of the data subject prior to the conclusion of the contract;
3. the processing is necessary for compliance with the legal obligations of the data controller;
4. the processing is necessary for the protection of the vital interests of the data subject or of another natural person;
5. the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official powers of the data controller and
6. the processing is necessary for the legitimate interests of the data controller or a third party, except where these interests are overridden by the interests or fundamental rights and freedoms of the data subject.

DATA PROTECTION/PRIVACY, CONT'D

In addition to the above, the special categories of personal data under the DPL include data revealing racial or ethnic origin, political opinion or political party's affiliation, religious or philosophical or other beliefs, trade union membership, genetic code, biometric data, health condition related data, data concerning a natural person's sex life, etc. The processing of special categories of personal data is generally prohibited, however, processing is allowed in certain exceptional cases prescribed by the DPL, such as if a data subject has given explicit consent to the processing of such data, or if their processing is necessary for the purposes of carrying out the obligations/exercising specific rights of the data controller in the field of employment, etc.

The data related to criminal convictions, felony judgements or related safety measures can be processed only with supervision of public body or in case such processing is prescribed by specific law.

The state authority competent for data protection matters in BH is the BH Data Protection Agency ("Agency"). The Agency is seated in Sarajevo and its official website is www.azlp.ba.

Personal Data Protection Officer

The data controller and the data processor are obliged to appoint the personal data protection officer in the following cases:

- public organ is processing the data, except courts in scope of their authorities;
- primary activities of data controller and data processor consist of processing operations which, by virtue of their nature, scope and/or purposes, require regular and systematic monitoring of the data subject on a large scale; and
- primary activities of the data controller or data processor consist of the large-scale processing of special categories of data referring to criminal procedure judgements and criminal offenses.

The personal data protection officer is appointed on the basis of his/her professional qualifications, in particular his/her professional knowledge of law and practice in the field of personal data protection.

The data controller and the data processor must ensure that personal data protection officer is involved in an appropriate and timely manner in all matters relating to the protection of personal data, as well as support him/her by providing with the necessary means to carry out those tasks and to gain access to personal data and processing operations, as well as to maintain his or her expertise. The personal data protection officer cannot get instructions during the performance of his tasks.

Data protection subject can contact the personal data protection officer for all questions concerning the processing of their personal data and the exercise of their rights under the DPL. Personal data protection officer is obliged to keep all information related to his work as an official secret.

Transfer of Personal Data

The transfer of personal data to another country or international organization can be made if the Council of Ministers of BH decides that another country, territory, or one or more specific sectors within that other country, or an international organization, provides an adequate level of protection, in which case such transfer does not require special approval. An adequate level of protection shall be deemed to be ensured in countries which have been determined by the European Union to ensure an adequate level of protection of personal data. The decision on the adequacy of the level of protection of personal data shall be adopted by the Council of Ministers of Bosnia and Herzegovina upon the proposal of the Agency.

DATA PROTECTION/PRIVACY, CONT'D

Penalty Provisions

The DPL prescribes monetary penalties from commercial entities from BAM 10,000.00 (approx. EUR 5,100) up to 4% of annual turnover and for person responsible in commercial entities from BAM 100 (approx. EUR 50) up to BAM 70,000 (approx. EUR 36,000). When deciding on the imposition of administrative fine, in each specific case the following things should be considered:

- type, severity and duration of misdemeanour;
- whether the misdemeanour is intentional or negligent;
- whether the data controller or data processor has made any actions to in order to mitigate the harm suffered by data subjects;
- cooperation with Agency in terms of remediate the misdemeanour; etc.

ARTIFICIAL INTELLIGENCE

Regulatory framework for artificial intelligence is yet to be discussed and adopted in BH. The local authorities such as BH Data Protection Agency and the Institute for Intellectual Property are yet to recognize the importance of the topic and associated risk and issue any form of guidelines. However, in accordance with the Stabilization and Association Agreement between European Union and BH, BH has taken the obligation to harmonize all its legislation with EU Acquis Communautaire, therefore it is expected that BH will follow the EU regulatory approach, once adopted.

EMPLOYEES/CONTRACTORS

Employer and employee must conclude an employment agreement in written form which defines their rights and obligations. Employees are entitled to the following rights stipulated by the applicable legislation: (i) right to minimal salary, (ii) working conditions which ensure health and safety at work, (iii) personal dignity, (iv) annual leave, (v) sick leave, (vi) rest period during working day, etc.

Employment can be established as indefinite term employment or fixed term employment. In regard to the fixed term employment, it may be established on one or more consecutive employment agreements with a maximum duration up to 3 years in FBH and 2 years in RS and BD. In case the term is not stated in the employment agreement (even though this is one of the mandatory elements of every employment agreement), the agreement is considered as an indefinite term agreement. If the employee continues working for the employer after the expiry of a fixed term employment agreement, the employment is considered extended for an indefinite term.

The employer is obliged to register an employee before the competent tax authority of FBH/RS/BD and to calculate and pay monthly social contributions.

EMPLOYEES/CONTRACTORS, CONT'D

Employer may terminate the employment relationship unilaterally only due to the limited numbers of reasons:

- due to the technical, economical or organizational reasons of the employer, whereas it cannot be reasonably expected from the employer to employ the employee on another work post or to educate, qualify or train the employee for another work post;
- due to the personal abilities of the employee (e.g., the employee cannot continue work due to an illness);
- due to a breach of duties by the employee.

Regardless of the specific reason for employment termination, the employer is obliged to render a decision in writing containing a detailed explanation of the reason as well as information on the employee`s post-termination rights and obligations such as notice period duration, severance payment (if any), non-compete obligations (if any) and similar issues.

Inventions or objects of industrial design realized at work or in connection with work belong to the employer, and the worker has the right to compensation determined by a collective agreement, an employment contract or a special contract.

Contractor work regime and work for hire are regulated by Law on Contracts and Torts at Entities level in form of service contract. The company can hire a person or legal entity for specific type of work that is not the business activity of the company, e.g. painting the walls, fixing the plumbing system, physical work, IT support etc. In case of concluding the service contract, the obligations of the employer regarding the employment relation such as daily rest, annual leave, maternity leave, weekly working hours limit, etc. do not have to be established.

In case of employing a person by service contract for a type of work which is in the scope of business activity of the company, the labor inspection will impose a fine to both employer and employee.

CONSUMER PROTECTION

Consumer protection in BH is regulated by BH Law on Consumer Protection and RS Law on Consumer Protection (**Consumer Protection Laws**).

Consumer Protection Laws provide the following set of right of the consumers: (i) right of access to main goods and services/right to satisfaction of basic needs, (ii) right to consumer education, (iii) right to safety and protection of life and health, (iv) right to be informed, (v) right to choose, (vi) right to be heard and be represented, (vii) right to damage compensation, (viii) right healthy environment.

In addition to the abovementioned set of rights, applicable legislation also prohibits unfair commercial practices, that is deceptive commercial practices containing inaccurate information that deceive or may deceive the average consumer. Furthermore, advertising cannot contain any statement or visible representation that would directly or indirectly, by omission, vagueness or exaggeration, mislead consumers, especially in relation to properties of products or services, value of the product or service and the total price, delivery, replacement, return or maintenance, warranty conditions etc.

Consumer Protection Laws among other, also regulate distance agreements providing that consumer is entitled to terminate an agreement within 15 days (14 days in RS) after receipt of the product without obligation to provide any reasoning.

TERMS OF SERVICE

Terms of service oblige the contractual party only if the content of the terms was made known to the other party or must have been known to it at the time of conclusion of the agreement.

Terms of service should not contain so-called unfair contractual provisions among other including the following provisions:

- by which the contracting party reserves the right to inappropriately long or insufficiently defined deadlines for accepting or rejecting an offer or performing an action;
- by which the contracting party foresees to release itself from the obligation without justified reason;
- by which the contracting party foresees that the agreed action can be changed or deviated from it solely taking into account its interest;
- which excludes or limits the right of the other contracting party to terminate the contract or to demand compensation for damages due to non-fulfillment of the contract;
- which excludes the right of the other contracting party to claim damages due to non-fulfillment of the contract, etc.

The online terms of service are usually communicated to the customer via a tick-box option.

TAX/FUNDING

There are several types of taxes in BH which are regulated on different levels:

- Value added tax – BH level;
- Corporate income tax – Entities level;
- Mandatory social security contributions, and
- Personal income tax - Entities level.

VAT – Value Added Tax

Tax payer is a legal or natural entity, which performs certain business activities, carries out supplies of goods and services with the aim of generating the profit. The relevant law is the Value Added Tax Law of BH (VAT Law).

Indirect Taxation Authority of BH is the competent authority for the VAT collection, VAT register, and inspection control.

The VAT registration can be mandatory and voluntary.

The VAT registration is mandatory, once taxable income of person exceeds 100,000 BAM (approx. EUR 51,000). Also, the person can apply for voluntary VAT registration in which, among the other required documents, must file an evidence from which can be seen that the threshold of 100,000 BAM (approx. EUR 51,000) will be reached.

The tax base for the supply of goods and services is the amount of compensation the taxpayer receives or is to receive.

The VAT rate is 17%.

The taxable transactions by the VAT Law are:

- the supply of goods and services performed for consideration by a taxable person within BiH in the course of their business activities and
- import of goods.

TAX/FUNDING, CONT'D

Corporate Income Tax

Corporate income tax is regulated on Entities' level by the following law:

- Corporate Income Tax Law of FBH;
- Corporate Income Tax Law of RS; and
- Corporate Income Tax Law of BD.

The tax payer is a company or other legal entity, who performs business activity by carrying out supplies of goods and services with an aim of generating the profit.

Corporate income tax is paid at a rate of 10% of the tax base determined in the tax balance sheet. The tax base is calculated in the tax balance sheet by adjusting the revenues and expenses based on the profit and loss statement.

Contributions

Employers are required to calculate several social security contributions, including retirement and disability insurance, health insurance and unemployment insurance. Table below contains aggregate contributions burden in BH:

	From the gross salary (borne by employee)	Borne by the employer (on top of the gross salary)
FBH	31%	5%
RS	31%	/
BD	30.5% (FBH model) or 32% (RS model)*	2,5% (only in FBH model)*

*In BD, the employees have a choice to opt between FBH and RS retirement and disability insurance. Contributions rates vary depending on the specific model.

TAX/FUNDING, CONT'D

Personal Income Tax, cont'd

Personal income tax is regulated on Entities' level by the following law:

- Personal Income Tax Law of FBH;
- Personal Income Tax Law of RS; and
- Personal Income Tax Law of BD.

In case of employment relationship, the person calculating the personal income tax is the employer, and it is being paid directly by the employer. The tax rate is 10% flat (excerpt in RS where it is 8% only in case of salary from the employment relationship and 13% in case of income from intellectual property, shareholder dividend, capital gains and other sources of income (not including salary, self-employment, personal income, foreign sources)). Tax base is the nominal gross wage after social contributions are deducted. For certain cases of lower income such as work for hire, or based on service contracts, the laws regulating the social contributions allow lower contributions to be paid.

Subsidies

There is a wide spectrum of incentives for small businesses at the levels of municipality, cantons, entities, different ministries both on level of canton and entities. In some cantons such as Canton Sarajevo, the employment bureau offers the co-financing of the first employment which pays a minimum salary and the obligation towards Tax Authority of FBiH and Pension-disability insurance.

More funding information can be found at the following resources:

1. Ministry of energy, mining and industry of Federation of Bosnia and Herzegovina: https://fmeri.gov.ba/javni-pozivi/subvencije/;
2. Ministry of Communal Economy, Infrastructure, Spatial Planning, Construction and Environmental Protection of Canton Sarajevo – notice e-board, https://mkipgo.ks.gov.ba/aktuelno/obavjestenja;
3. Government of Canton Sarajevo - https://vlada.ks.gov.ba/preuzimanja/registar-poticaja;
4. Government of Republika Srpska - https://infobiz.komorars.ba/podsticaji-vlade-republike-srpske/.



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LEGAL FOUNDATION

Brazil has adopted a civil law system.

The main normative source of the Brazilian legal system is the Brazilian Federal Constitution, which establishes the foundations and purposes of the republic. It presents a comprehensive list of fundamental rights and guarantees, social rights, and principles to be applied by lawmakers and enforcers, in addition to stipulating the powers held by the government.

The Constitution adopts a federative model based on the division of powers among the federal government, the states, and municipalities, all of which have their competence limited by the constitutional text.

The Brazilian Federal Constitution divides the government functions among these branches, each one having specific attributions:

- Executive
- legislative; and
- judiciary

Executive: Responsible for administrative functions and management of government entities. It must observe the roles defined in the Brazilian Federal Constitution and in infra-constitutional law.

Legislative: Responsible for drafting, discussing, and approving laws. The Legislative Branch is composed of the Senate and the House of Representatives at the federal level. The legislative branch is also present at the state and municipal levels.

Judiciary: Exercises the role of judging conflicts between individuals, companies, and the government to enforce the Federal Constitution and law in concrete cases and, thus, mitigate conflicts.

BRAZIL

CORPORATE STRUCTURES

Legal entities that conduct commercial activities in Brazil and do not rely on the so-called shareholders' intuitu personae aspect, i.e., personal attributes of such shareholders, are usually structured as limited liability companies (i.e., Ltda) or corporations (e.g., S.A.). Below is a description of the main aspects of each type of entity and the advantages and disadvantages usually considered by investors/entrepreneurs:

Limited Liability Companies

Regulated by the Brazilian Civil Code (Law n. 10,406/02), the Brazilian Limited Liability Company is the most common type of legal entity incorporated under Brazilian Legislation. Unlike joint stock corporations (which have their capital stock divided into shares), such entities have their capital stock divided into quotas. The main characteristic of this type is the responsibility of each quota holder, which is limited to the value of the quotas subscribed by such quota holder, although all of them are jointly liable for the payment of the corporate capital. In general, this corporate structure has some significant differences when compared with a corporation; for example, there is less formal obligations, as in connection with publicity, as limited liabilities companies have no obligation to publish their financial statements in official gazettes or major private newspapers, there is no obligation to have corporate books, the possibility of disproportionate distribution of profits, possibility of leaving the company without justifiable reason, among other differences.

Below are some of the usually considered advantages and disadvantages of this type of structure:

ADVANTAGES

- Reduced personal risk by establishing a distinction between the company's assets and the assets of each partner.
- Each quota holder's liability is related to the value of the quotas subscribed within the capital stock.
- The distribution of profits is facilitated since each partner is entitled to profit according to their stake in the company. Withdrawal or distribution of profits to the partners is forbidden if there are solely losses in a fiscal year (which is also a mechanism to protect the stability of the business).
- The legislation does not stipulate a maximum limit of quota holders.
- Partners cannot use the company's assets for private matters.
- A partner can be excluded when they are remiss, that is, when they do not pay up their part of the capital within the determined period or when they jeopardize the functioning and/or existence of the company.

DISADVANTAGES

- No requirement to create a fiscal council.
- There is no minimum amount to start a company.
- Naming formalities must be considered, as to have such an entity registered before the Board of Trade, its company name must include the abbreviation Ltda. (from Limitada)
- According to the law, although liability is limited to the value of each subscribed quota, partners are jointly liable for the company's capital subscribed and not paid to the company.

CORPORATE STRUCTURES, CONT'D

Corporations

The Brazilian joint-stock company is the type of entity that most closely resembles the US subchapter C corporation. Such entities are regulated by the so-called Brazilian Corporations Law (Law n. 6,404/76). As previously mentioned, the Corporations have their capital stock divided into shares, which can be issued into different classes, such as voting and non-voting shares. Shareholders' liability is limited to the payment of the shares subscribed. In other words, once the issue price of the shares is paid, the shareholder's liability for the company's debts ceases, both to the company and to its creditors. Therefore, unlike limited liability companies, such entities have no joint liability between shareholders. Foreign shareholders must have legal representatives in Brazil to act on their behalf. It is important to highlight that corporations' shareholders' general meetings are the highest deliberative body of the entity and the forum where the most relevant matters to the business are addressed and decided. A board of officers shall also be mandatorily appointed by shareholders, with officers who are fiscal residents in Brazil or who hold a permanent visa, while the creation and appointment of a board of directors are optional for non-public corporations. When created, the Board of Directors can be composed of foreign members, not necessarily residents in Brazil.

Brazilian Corporations Law, although older than the Brazilian Civil Code, which was amended and renewed in 2002, is generally considered more technical and effective. It explicitly embraces, for example, the existence and enforceability of shareholders' agreements, which are generally accepted within the sphere of limited liability companies but not provided for in the applicable law. Indeed, the Brazilian Civil Code leaves quota holders free to provide in the company's articles of association that Corporations Law shall apply whenever the Brazilian Civil Code or respective articles of association are silent regarding any given matter.

This structure has both advantages and disadvantages, which should be considered by entrepreneurs:

ADVANTAGES

- Shareholders' liability is confined to the value of their stake, and they are not jointly liable to other shareholders' contributions to the corporation's capital stock.
- There is greater ease in assigning securities, whether by private or public subscription.
- Shareholders are not liable for other shareholders' obligations towards the corporation in connection with the capital stock contribution.
- Brazilian Corporations Law provides for mandatory distribution of dividends to shareholders, giving greater certainty to the distribution of dividends in return for a successful investment.
- An additional layer of corporate governance, with the obligations to keep records of certain documentation and books in connection with the conduct of the business, and based on them, at the end of each fiscal year, financial statements must also be prepared: balance sheet, statement of accumulated profits and losses, results for the year, and cash flow.
- Easier fundraising since it has at its disposal the possibility of creating debentures (credit title) and going public on the stock exchange market.

DISADVANTAGES

- A corporation is not entitled to opt for the Simples Nacional, a differentiated, lower, and simplified tax regime, authorized to a Brazilian Limited Liability Company with annual incomes lower than R$ 8,700,000.
- Corporate restructurings may entail additional costs due to the need to present an appraisal report in the payment of capital with corporations' assets.
- Corporations are prevented from distributing disproportionate profits to shareholders' interests in the capital, except for preferred shares, which may have certain privileges concerning common shares. However, this must be determined in the bylaws beforehand.

CORPORATE STRUCTURES, CONT'D

Other Structures

While the above structures are most commonly used, especially from a business perspective, there is a variety of other structures available within the Brazilian Law.

The Brazilian Civil Code provides for other types of entities, such as sociedade em conta de participação (SCP) and sociedade de propósito específico (SEP), em nome coletivo, sociedade em comandita simples or sociedade em comandita por ações. Both the so-called sociedades em comandita permit a system in which stockholders directly involved in the conduct of the company's affairs are unlimitedly liable for the company's obligations, while members with an investor profile (not involved in the administration) have limited liability up to the value invested in their shares. Except when dedicated to a specific venture (e.g., real estate project, joint venture, and others), such forms of entities are not widely used.

Sociedades simples, on the other hand, are nonentrepreneurial companies, where the shareholders' intuitu personae aspect (personal skills or attributes) is more relevant than the perpetuity of the business activities.

The Brazilian capital markets are quite solid and sophisticated, and often a good alternative for funding, particularly when working capital and investments originate from foreign entities, as the tax benefits are significant.

ENTERING THE COUNTRY

Either for tax or corporate reasons, Brazil incentivizes and often requires companies doing business in the country to have a local presence in the country (i.e., a representative with residency in Brazil). While this rule might not be enforced at all times against small businesses, it can be enforced whenever a business becomes relevant in Brazil.

The Brazilian government regulates some industries to restrict or prohibit foreign capital. **Foreign capital is prohibited in activities relating to nuclear power, mail and telegraph services, and the aerospace industry** (launching satellites and placing them in orbit, vehicles, aircraft, and other activities).

Establishing a strategy to enter the country is key in industries where foreign capital might be restricted, such as:

- **Mineral resource prospecting and mining in border areas (a band stretching 150 kilometres from Brazil's international borders):** The exploitation and use of mineral resources in Brazil can only take place under a specific federal authorization or concession, and only Brazilian citizens or companies organized under Brazilian laws with headquarters and an administrative body located in the country can engage in these activities.
- **Telecommunications**: Companies with licenses to provide telecommunications services must be organized under Brazilian law and have their principal place of business and administration in Brazil. The majority capital of the company's parent company must be owned by an entity domiciled in Brazil.
- **Healthcare**: Direct or indirect participation of foreign companies or capital in health assistance in the country is forbidden, except in the following cases: (i) donations of international bodies associated with the UN; (ii) technical cooperation entities; and (iii) credit and loans.
- **Rural land**: The acquisition of rural land by Brazilian entities controlled by a non-citizen residing in Brazil, or by a foreign entity authorized to operate in Brazil, is subject to specific legal requirements. These restrictions also apply to corporate transactions resulting in the direct or indirect transfer of rural land.

BRAZIL

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign or combination of signs and words that are visually perceptible, used, or proposed to be used to distinguish the goods and services and not otherwise included within the legal prohibitions can be registered as a trademark. Trademarks are commonly divided into three categories: nominative, figurative, or mixed. If, due to any distinctive sign of a product or service that, for whatever reason, cannot be classified into one of the categories above, the trademark may be defined as a "non-traditional trademark".

Where to apply? Trademarks can be filed with the Brazilian Patent and Trademark Office (Instituto Nacional da Propriedade Industrial – "INPI", in Portuguese) for trademark protection within Brazil. If the goods or services will be marketed in other countries, Brazil is also part of the World Intellectual Property Organization (WIPO) under the Madrid System since 2019, which allows international applications. An application for trademark registration can be filed with the INPI Trademarks e-Filing service. Once the application is received, INPI will conduct its own searches, ensure compliance with legislation, and publish the application in a Trademarks Journal ("RPI") to allow the public to oppose the application. The decision to grant or refuse registration is issued ex officio by INPI's examiner, based on the legal requirements for registrability — including prior rights and distinctiveness. Oppositions, if filed, are taken into consideration but are not binding on the examiner.

Duration of protection? The trademark registration remains valid for 10 years from the date that its registration is granted. It can be renewed every 10 years after that for a fee.

Costs? Application costs for Brazilian trademarks submitted online through INPI's website are currently R$ 880,00. As from September 2026, there is no additional payment for registration.

Patents

What is protectable? Patent protection in Brazil is provided for in the Federal Constitution and the National Industrial Property Law (Law n° 9.279/2016), which ensures the right to prevent third parties from producing, using, offering for sale, selling, or importing with such purposes a particular invention. This protection may be granted to (i) inventions that present a novelty, inventive activity, and industrial use and (ii) utility models if the objects (in whole or in part) are for practical use, have industrial use, present a new format or pattern that involve an inventive act and results in a functional upgrade its use of manufacture.

Where to apply? The applicant for patent registration is the creator of the invention, and he may be granted the rights to patents in whole or in part. Recognition of joint ownership is also possible. The Intellectual Property Law also allows the patent holder or applicant to enter a license agreement for exploitation. Patent licensing consists of the authorization granted to companies to manufacture and market a patented product. Mandatory licenses can be granted to ensure free competition or to prevent abuse of rights or economic power by the holder of the right if the object of the patent is not being exploited or if the market needs are not being met. Brazil is part of the PCT Agreement – so it is possible to request an international patent with the INPI. INPI is also the entity responsible for the "national phase" analysis of foreign patent requests in Brazil. Records and contracts must be registered with the INPI in order to be valid against third parties.

Duration of protection? The duration depends on the type of patent. For cases of inventions, the duration of protection is 20 years from the date of application; for utility model cases, the duration of protection is 15 years from the date of application.

Costs? Application costs for Brazilian patents submitted online through INPI's website begin at R$ 1,130,00 (up tp 10 claims) - R$ 260,00 for the deposit and R$ 870,00 for the technical analysis.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs

What is protectable? It is registerable as an industrial design, the ornamental plastic form of an object or ornamental set of lines and colors that can be applied to a product, providing a new and original look in its external configuration, and serving as a type of industrial manufacture. Industrial designs that are contrary to morality and good customs that offend the honor or image of people or violate freedom of conscience, belief, religious worship, or ideas and feelings worthy of respect and veneration are excluded from any protection. Purely artistic objects or patterns are also exempt from industrial design registration, that is, objects that cannot be reproduced on an industrial scale.

Where to apply? Any natural or legal person who has legitimacy can apply for registration, which will only be valid in the national territory. The owner of the industrial design has the right to prevent third parties from producing, selling, using, or importing the industrial design object of the registration without his consent. The request can be made through the INPI website, electronic petition, or at one of the Institute's units throughout Brazil.

Duration of protection? The protection is granted for 10 years and can be renewed 3 times for 5 years.

Costs? The cost of the initial deposit of the registration request made through the INPI website is R$ 350.00. Throughout the process, other fees may apply.

Copyright

What is protectable? Copyright protection is available under Brazil's Copyright Act for "creations of the spirit," expressed by any means or fixed in any medium, tangible, or intangible, now known or invented in the future, such as original literary, artistic, dramatic, or musical works. Copyright protection arises immediately upon the creation of a work. No registration is required to assure copyright protection, but registration is available to provide evidence that the copyright exists, and that the person registered is the owner.

Where to apply? Applications can be filed in different places depending on the work registered. For example, the National Library Foundation registers literary works, while the Music School of the Federal University of Rio de Janeiro registers musical works.

Duration of protection? In general, economic rights in copyrighted works remain valid for 70 years, counted from January 1st of the year following the year of the author's death. For software, protection of the copyrights remains valid for 50 years, counted from January 1st of the year following the year of the software's publication or, if unpublished, of its creation.

Costs? Registration is not mandatory and vary according to each place.

The following IP rights cannot be registered:

Trade Secrets

What is protected? Although trade secrets are not protected as property, Brazilian law rebukes any breach of trade secrets. When dealing with unfair competition, the Brazilian Industrial Property Law criminalizes conduct involving the unauthorized use of trade secrets.

Duration of protection? Not applicable to this jurisdiction.

How to keep trade secrets secret? By means of a contract (Non-Disclosure Agreement). In case of violation of trade secrets, holders may hold those responsible liable in the criminal sphere (i.e., arrest and monetary fine) and civil (i.e., injunction to prevent further infringements and damages).

DATA PROTECTION/PRIVACY

Law n° 13.709/2018, known as the General Law for Personal Data Protection ("LGPD" in Portuguese), was enacted to unify laws and regulations governing the use of personal data and to strengthen the protection of fundamental rights, including freedom and privacy. In 2022, the protection of personal data was recognized as a fundamental right under the Brazilian Federal Constitution.

This legislation was drafted under the strong influence of the General Data Protection Regulation (GDPR) of the European Union (EU). The LGPD establishes data subjects' rights and obligations for companies that process data, establishes legal bases for the collection and processing of data, and requires a high degree of preparation, adequacy, and compliance on the part of companies.

The law defines "personal data" as any information related to "an identified or identifiable natural person." The most important distinction is identifiable data that can be aggregated with other data to identify a person. In addition to this category, the LGPD defines a more specific category that can be subject to treatment in more limited circumstances: sensitive data. This refers to specific categories of personal data whose processing may result in discrimination against its holder.

Due to its distinctiveness compared to the GDPR, is that the LGPD applies to all legal entities - public or private - and individuals who process personal data for commercial purposes, whether in the digital or physical form. Any company that collects, uses, transfers, stores, or otherwise processes the personal data of a Brazilian customer or employee is subject to the LGPD in its entirety.

Regarding the application in the territory, the LGPD has extraterritorial jurisdiction, meaning it must be observed by the company or organization regardless of its location. In this sense, the legislation provides that it should be applied when (a) data collection or processing takes place in Brazil; (b) data is processed to offer goods or services to individuals in Brazil; or (c) data collected in Brazil is processed.

The legislation was also concerned with identifying cases in which it should not be complied with. It should not be applied to the processing of personal data (i) carried out by a natural person for exclusively private and non-economic purposes; (ii) carried out exclusively for journalistic, artistic, or academic purposes; (iii) carried out for only government purposes (such as public security and national defence); or (d) performed for private, non-commercial purposes.

Transparency is a core requirement under the LGPD and applicable sectoral regulations, and privacy policies constitute the principal instrument for ensuring such transparency, notwithstanding that complementary mechanisms may also be adopted; another critical aspect in applying the LGPD is the identification of an appropriate legal basis, which defines the lawful circumstances under which personal data may be processed, as the statute establishes ten legal bases including consent, compliance with a legal or regulatory obligation of the controller, performance of a contract, and protection of the life or physical safety of the data subject, while also providing specific legal grounds for processing sensitive personal data, such as fraud prevention and the protection of the data subject's security, which are not available for the processing of non-sensitive personal data.

After its publication, the legislation underwent some changes, including the addition of an article establishing the National Data Protection Authority (ANPD), the public administration body responsible for overseeing, implementing, and supervising compliance with this law throughout the national territory. Additional guidelines were recently published regarding the requirement to have a Brazilian Portuguese-speaking Data Protection Officer, to communicate data incidents to authorities and data subjects, and to meet other accountability requirements.

DATA PROTECTION/PRIVACY,CONT'D

Since September 2025, the ANPD has been formally converted into Brazil's Data Protection Regulatory Agency (Agência Nacional de Proteção de Dados), strengthening its institutional status and regulatory autonomy within the Brazilian legal framework. The ANPD is responsible for enforcing the LGPD and guiding compliance and interpretation. It has several enforcement mechanisms available, outlined in the LGPD, including fines up to 2% of a company's gross revenue, with a maximum fine of R$50 million per violation, public disclosure of the violation, prohibition of data processing activities, suspension of the database operations or processing activity involved in the violation.

The ANPD has also issued specific rules on cross-border data flows. Resolution CD/ANPD n° 19 establishes the main legal mechanisms for international data transfers under the LGPD, including adequacy decisions, standard contractual clauses, specific contractual clauses approved by the ANPD, and binding corporate rules. Its provisions have been effective since August 23, 2025, and may be required and enforced by the ANPD in supervisory and sanctioning proceedings involving international transfers. In January 2026, Brazil and the European Union mutually recognized the adequacy of their personal data protection frameworks. The European Commission adopted an adequacy decision regarding Brazil, and Brazil recognized the EU as providing a level of protection compatible with the LGPD, significantly facilitating international data transfers between the jurisdictions.

Although the ANPD's work and enforcement are recent, several court cases involving data protection matters have already been filed.

Currently, thousands of lawsuits address issues such as improper data sharing, data breaches, and corporate civil liability. In addition to ANPD, regulatory agencies and public prosecutors have been active in enforcing the law.

ARTIFICIAL INTELLIGENCE

Since 2019 the National Congress has been discussing certain bills of law to regulate Artificial Intelligence ("AI") in Brazil. In March 2023, the Federal Senate proposed Bill of Law No. 2,338/2023 ("PL 2338/2023"), consolidating previous bills of law in one.

In December 2024, the Federal Senate approved a bill regulating AI in Brazil. The proposal moved to the Chamber of Deputies for review and approval. As of early 2026, the bill remains under discussion in the Chamber of Deputies and has not yet been enacted into law. The text approved by the Senate incorporates contributions from seven other projects, along with dozens of amendments submitted by various senators.

The purpose of PL 2,338/2023 is to establish a regulatory framework for the development and offering of Artificial Intelligence (AI) in Brazil. The final text presented by the Senate has the following structure:

- **Foundations and Principles:** Defines ethical and legal principles for AI usage, prioritizing human dignity and privacy.
- **Rights of Individuals:** Guarantees transparency and consent rights regarding data usage, especially for vulnerable groups.
- **Risk Categorization:** Introduces a risk assessment that classifies AI systems as "low", "high", and "excessive", with specific rules for each category.
- **Governance:** Requires organizations developing AI to implement governance structures to ensure regulatory compliance.
- **Civil Liability:** Establishes criteria for holding AI developers and operators accountable in the event of harm.
- Codes of Good Practices: Encourages the creation of conduct codes that promote self-regulation within the sector.
- I**ncident Reporting:** Mandates the mandatory reporting of critical incidents to the relevant authorities.
- **Supervision and Promotion:** Defines parameters for oversight and sanctions, as well as provisions to promote innovation.
- **Effectiveness:** Specifies that the regulation will come into effect one year after its publication.

PL2338/2023 establishes sanctions for noncompliance with AI regulation such as warnings, simple or daily fines, partial or total suspension of activities, publication of the violation, and prohibition of participation in the regulatory sandbox.

In addition to PL 2338/2023, consumer protection authorities, public prosecutors, and regulatory agencies from different sectors (particularly the Central Bank and health-related agencies) will continue to have jurisdiction to regulate AI-specific applications and enforce existing laws such as consumer protection laws, sectoral ordinances, data protection, and other laws on companies that offer AI systems. In 2024, ANPD, the Brazilian Data Protection Agency, initiated a number of enforcement actions regarding AI-related practices, using data protection as the underlying issue to enable enforcement, even with a suspensive order against Meta for reusing data for training generative AI.

Companies doing business in Brazil have begun establishing AI governance programs to mitigate risks associated with AI use and ensure compliance with existing and upcoming legislation.

In any event, the AI bill may still undergo substantial amendments while under review by the Chamber of Deputies, including changes to the risk classification model, governance obligations, and liability rules, before a final version is approved and enacted into law.

BRAZIL

EMPLOYEES/CONTRACTORS

General: In general terms, Brazilian labor law is set out in the Consolidation of Labour Laws ("CLT"), the Federal Constitution, and Collective bargaining agreements. Startups are also subject to the same labor rules as any other company (CLT).

Employee/worker: A worker is a natural person who regularly works for compensation, is subordinate to someone, and undertakes the work personally. A written contract is highly recommended for an employee and a service provider (legal entity). The contract stipulates certain conditions, such as compensation and benefits, job description, working hours and work regime (remote, in-person, hybrid), place of work, and duties (confidentiality, non-disclosure, and non-competition obligations, etc.). The legislation sets the working hours at 8 hours per day and 44 hours per week. In 2026, although this statutory limit remains unchanged, compliance and control mechanisms have been reinforced, particularly through mandatory digital reporting systems (such as eSocial) for recording working hours and overtime. Brazilian labor law considers any hours worked beyond eight hours a day as overtime. Overtime is paid at the rate of adding at least 50% of an employee's regular hourly compensation. As of 2026, all fixed salary components must be included in the overtime calculation base, reinforcing transparency and accuracy in payroll practices. Some positions are exempt from overtime and working day compensation control. These include positions of trust, such as managers and executives, and employees who usually work outside the office, such as those who work from home or in the field. In addition, 2026 has brought clearer regulatory guidance regarding time-banking arrangements (bank of hours), 12×36 work regimes, and remote work structures, strengthening procedural requirements without altering the legal concept of exemption. Employees are liable for personal income tax (IRPF) and social security deductions (Source Deductions). Adjustments to the minimum wage in 2026 may affect the calculation of overtime and other statutory supplements, but they do not alter the fundamental legal classification of the employment relationship. Legislative discussions in 2026 also include proposals to reduce weekly working hours and to update rules on holiday work through collective bargaining agreements; however, these discussions have not altered the statutory definition of an employee under Brazilian law.

Some employee rights: Holiday entitlement (30 paid days per year plus one-third of the monthly remuneration paid), with reinforced procedural requirements in 2026 regarding prior written notice and clearer limits on the division of vacation periods, without changing the fundamental entitlement, 13th salary (one extra monthly salary per year), which remains mandatory and generally paid in two installments proportionally to the time worked during the year, and a remunerated weekly day off, which continues to be guaranteed under the CLT, including differentiated pay for work performed on Sundays and public holidays, as provided by law or collective bargaining agreements. There is a requirement to pay social security, which remains mandatory for both employer and employee under the General Social Security Regime (RGPS/INSS), subject to updated contribution brackets and ceilings pursuant to annual regulatory adjustments. Legal benefits are often provided for in collective bargaining agreements and with trade unions, and this possibility remains unchanged in 2026, with collective bargaining continuing to play a significant role in extending rights beyond statutory minimum standards. Pregnant employees are entitled to 120 days (up to 180 days) of paid maternity leave in Brazil, and this rule remains in force in 2026, including the extension to 180 days for employers enrolled in the Empresa Cidadã Program. Recent regulatory and judicial developments have reinforced protection in specific legally recognized situations. The employer directly pays the employee, but Brazil's social security system reimburses employers. Employees are entitled to five days (up to 15) of paternity leave, fully paid by the employer, with the possibility of extension (up to 20 days) for employers participating in the Empresa Cidadã Program, while broader extensions are still under legislative discussion and not yet universally in force. The Brazilian Social Security regime (INSS) maintains old-age retirement pensions, death pensions, illness and injury benefits, disability benefits, and parental leave. The employer makes monthly deposits of 8% of an employee's gross compensation into an escrow account with a governmental bank (Brazilian Government Severance Indemnity Fund Law - FGTS).

EMPLOYEES/CONTRACTORS, CONT'D

Contractors/Other forms of employment/hiring: A company may also offer a contractor agreement (freelance contract or contract for work and services, independent contractor/self-employed) instead of an employment agreement (worker). It is also possible to hire a legal entity whose partner will provide the service. For these contracts, some protective provisions of labor law do not apply. In contracting, taxes, labor charges and social security are much lower for the company and the employee. The distinction between an "employee/worker" and a "contractor" is a question of fact, not determined solely by what the parties agree to call themselves. In these contracts, the requirements for the configuration of "worker" (employee, properly speaking) and subject to the labor legislation (CLT) cannot be present, especially subordination, personality, control of working hours, and habituality. These modalities require more attention to avoid creating a labor relationship and to avoid fines, inspections, and labor lawsuits from the Ministry of Labor. These other contracts, as a rule, are governed by the Brazilian Civil Code. Although this risk exists, in the case of startups, given the possibility of business instability and labor costs, hiring through partnerships can be considered, such as vesting contracts, service contracts, and stock options, among others, depending on the situation.

Termination: Workers are well protected under the CLT (Consolidated Labor Laws). Notice periods for resignations in Brazil are 30 days, which can be reduced by mutual consent from both the employer and employee. Notice periods for dismissals in Brazil must be at least 30 days, with 3 days added per year of service, up to a maximum of 90 days. The employer may provide pay instead of notice and release the employee from work. If an employee is dismissed without cause, the employer must pay 40% of the accumulated balance in the employee's Unemployment Compensation Fund (FGTS). Additionally, 10% must be paid to the government as tax.

Additionally, employees dismissed without cause may be entitled to unemployment insurance, a federal benefit, provided they meet the established requirements, such as a minimum work period and no other source of income. For all other types of contracting, the conditions for termination must be agreed to in advance by the parties and set forth in the contract.

In addition to these statutory termination rules, Brazilian higher courts have developed significant constitutional and jurisprudential guidance that shapes the interpretation and application of these principles.

Supreme Federal Court, Brazil's Constitutional Court
Brazil's Supreme Federal Court is the highest court for constitutional matters and has defined the main legal boundaries for employment relationships and outsourcing. It has confirmed that companies may outsource any part of their activities, including core business functions. It has also validated the hiring of independent transport service providers, recognized that collective bargaining agreements may limit certain statutory labor rights as long as fundamental non-waivable rights are preserved, confirmed that union dues are no longer mandatory, and accepted that stock option plans may have a commercial rather than salary nature depending on their structure. These positions remained stable in 2025 and 2026.

Superior Labor Court, Brazil's Highest Labor Court
The Superior Labor Court is responsible for harmonizing nationwide interpretation of labor law. It maintains consolidated case law on key issues such as outsourcing and the possibility of holding the contracting company subsidiarily liable for labor debts, evidentiary rules concerning working hours, allocation of the burden of proof in termination disputes, protection of pregnant employees, and the legal consequences of unlawful hiring by public entities. The Court consistently applies the principle that factual reality prevails over contractual labels, particularly in cases where individuals are formally engaged as service providers through legal entities but perform work under conditions typical of employment. No new binding precedents in 2025 or 2026 modified these core interpretations.

EMPLOYEES/CONTRACTORS, CONT'D

Superior Court of Justice, Brazil's Highest Court for Federal Non-Constitutional Law
The Superior Court of Justice does not decide whether an employment relationship exists, as that competence lies with the Labor Courts. However, it has clarified jurisdictional boundaries, confirming that employment status disputes must be decided by Labor Courts. It has also been established that labor claims are quantified by Labor Courts but enforced within insolvency or bankruptcy proceedings when applicable. In addition, it has upheld the validity of civil and commercial contracts where the legal elements of employment, such as subordination and habitual remuneration, are not present. These understandings also remained unchanged in 2025 and 2026.

CONSUMER PROTECTION

The Consumer Defense Code, enacted by Law No. 8078 of September 11th, 1990, ensures and reinforces the need for consumer protection and regulation of consumer relations, as provided for in the Constitution of the Federative Republic of Brazil. As of 2026, there have been no structural amendments to the Consumer Protection Code altering its fundamental principles; however, regulatory and legislative developments concerning digital environments — including discussions and initiatives commonly referred to as the "ECA Digital" (Law 15,211/2025 - a digital protection framework derived from the Child and Adolescent Statute – Law No. 8,069/1990) — have reinforced compliance obligations in online consumer relations involving children and adolescents. The Brazilian legal system enshrines consumer protection not only as a fundamental right but also as one of the basic principles of the economic order, which must be observed as a legitimate limitation to free enterprise.

The special legislation defines the consumer as the end user of products and services. On the other hand, the supplier is every natural or legal person, public or private, national or foreign, that produces, assembles, creates, builds, transforms, imports, exports, distributes, or sells products or services – terms also conceptualized by the law.

Thus, any business model in which a company, for example, sells its product or service to the consumer must comply with the various obligations imposed on suppliers, according to the Consumer Protection Code. Otherwise, in cases where the product or service is contracted to implement an economic activity, the legislation will not be applied since the final recipient of the consumption relationship would not be configured.

Suppliers have strict liability based on the risk of the activity carried out and earned by verifying two criteria: (i) actual damage and (ii) a causal link between the damage and the product or service. Therefore, the duty and obligation to respond to the damage arise regardless of fault. The legislation also provides, for cases involving a production chain, the joint and several liabilities of all parties involved in the stages of production or provision of the service. Suppliers may not be liable for damages if the consumer or a third party is held solely responsible.

In addition to protecting individual consumers, the Code also safeguards collective and diffuse interests, allowing the Public Prosecutor's Office, the Public Defender's Office, and civil associations to file class actions to defend groups affected by abusive practices.

For the hypotheses of non-compliance with obligations, the legislation provides for the repair of damages resulting from unlawful acts, breach of contract, and violation of rules related to consumer rights, also providing for the possibility of applying the "disregard of legal personality" to protect consumers from abusive and fraudulent acts.

CONSUMER PROTECTION, CONT'D

The Code also prohibits various abusive practices, such as imposing excessively disadvantageous clauses, hindering the exercise of consumer rights, and selling products or services without prior request. Furthermore, it regulates advertising, prohibiting misleading or abusive advertisements that may deceive consumers. In addition to ECA Digital, recent regulatory developments in the fixed-odds betting sector have reinforced the application of these consumer protection rules, particularly in relation to advertising practices, transparency obligations, bonus policies, and the protection of vulnerable consumers. Another relevant aspect is the inclusion of consumers in default registers maintained by credit protection agencies. The Code establishes that consumers must be notified in advance before being listed, ensuring the opportunity for contestation.

Brazilian courts are very strict in applying this law to promote balance among supply market participants. In addition to the judicial system, consumer rights are protected by consumer bodies or associations and the Public Ministry.

The provisions and rules in the Brazilian Consumer Protection Code are similar to those in other countries. Brazilian courts are pro-consumer and, consequently, are very strict in applying this law to ensure that it fulfills its main objective.

The main development lies in the strengthened regulatory attention to digital consumer relations (including betting) and the reinforced application of child and adolescent protection principles within the digital sphere (ECA Digital).

TERMS OF SERVICE

"General Terms and Conditions": the document that establishes rules and conditions for a given service, focusing on transparency. Once the user has read and accepted the terms and conditions provided, they are bound by the clauses. The "General Terms and Conditions" must inform the user about the services provided by the body or entity and the ways of accessing these services: formation of the contract, compensation, obligations, and covenants, among other service characteristics.

"Privacy Policy": the document that the service provider makes available to the user with information on how the service processes personal data and how users' privacy is guaranteed. Privacy Policies are legally required in most countries, including Brazil with the aim of promoting transparency in data processing and ensuring that data subjects have control over their personal information.

TAX/FUNDING

Brazilian organizations are typically organized in the legal form of corporations Sociedade por Ações S.A. or limited liability companies Sociedade Limitada Ltda. Therefore, we limit our tax overview to the investment into organizations organized under these structures.

TAX/FUNDING, CONT'D

TAX

Corporate Income Tax: Brazilian corporations remain subject to Corporate Income Tax IRPJ at a nominal rate of 15% percent on taxable income. An additional 10% percent surtax applies to annual taxable income exceeding BRL 240,000. Companies are also subject to a Social Contribution on Net Profits CSLL at a rate of roughly 9% percent for most businesses or 20% percent for financial institutions. Thus, the combined corporate tax burden can reach up to 34 percent. Income tax may be withheld on certain payments made by a Brazilian corporation to a non-resident recipient, unless reduced or exempt under an applicable tax treaty.

Withholding Tax on Dividends: Under current legislation, dividends distributed out of profits generated up to 31 December 2023 remain exempt from withholding tax. As part of the recent tax reform, Brazil has introduced a 10 percent withholding tax on dividends distributed from profits generated on or after 1 January 2026, which is already in force. This change shifts part of the tax burden from the corporate level to the shareholder level.

Withholding Tax on Royalties: Royalties paid by a Brazilian corporation to a non-resident are generally subject to a 15 percent withholding tax, which may be reduced under an applicable tax treaty. If the beneficiary is resident in a low tax jurisdiction, the rate may be 25 percent. In addition, a federal contribution known as CIDE may apply at a rate of 10 percent on certain technology transfer and technical service agreements.

Capital Gains Tax: Capital gains earned by non-residents upon the sale of shares in a Brazilian company are generally subject to withholding income tax at progressive rates ranging from 15 percent to 22.5 percent. If the seller is resident in a low tax jurisdiction, the rate is 25 percent. Indirect transfers involving foreign holding companies may also be subject to tax in Brazil if certain statutory thresholds are met.

VAT (ICMS, ISS, PIS, COFINS): Brazil approved a comprehensive indirect tax reform that replaces several existing consumption taxes with a dual value-added tax model. ICMS State VAT, ISS Municipal Service Tax, IPI (industrialization tax), PIS, and COFINS Federal Contributions will be gradually replaced by:

- **IBS Imposto sobre Bens e Serviços:** A subnational value-added tax administered jointly by states and municipalities.
- **CBS Contribuição sobre Bens e Serviços:** A federal value-added tax.

The new system is non-cumulative and credit-based, with taxation at destination. The combined standard rate is expected to be around 25-27 percent, although the exact rate will be defined by complementary legislation. A selective tax named "Imposto Seletivo" will apply to specific goods and services considered harmful to health or the environment. The transition period begins in 2026 with a testing phase and runs through 2032, with full replacement of ICMS, ISS, PIS and COFINS expected by 2033. During the transition, both the old and new systems will coexist.

Labor Taxes: Organizations in Brazil must also comply with labor-related taxes and contributions. Employers are subject to payroll charges, including:

- **INSS Social Security Contribution:** Employer contributions generally range from 20 percent to 22.5 percent of employees' salaries, depending on sector and risk classification.
- **FGTS Severance Indemnity Fund:** Employers must deposit 8 percent of employees' monthly salaries into an FGTS account.
- **Other Payroll Related Contributions:** Depending on the sector, additional contributions such as RAT Work Accident Insurance and contributions to industry-specific entities such as SENAI, SESI, and SESC may apply.

TAX/FUNDING, CONT'D

TAX, CONT'D

R&D Incentives Relevant for Startups: Brazil offers tax benefits for innovation and research and development, including:

- **Innovation Incentive - Lei do Bem Law No. 11,196 of 2005:** Provides tax incentives such as additional deductions of up to 200 percent of qualifying R&D expenses from taxable income. The benefit is available only to companies taxed under the real profit regime.
- **FINEP Programs:** Offer public funding, grants and subsidized credit lines to companies engaged in technological innovation.

FUNDING

Private Investment and Venture Capital
Startups Act Law No. 182 of 2021: Establishes a regulatory framework for startups, including the use of Mútuo Conversível Convertible Debt, a mechanism similar to SAFE notes, allowing investors to fund startups with the possibility of converting debt into equity.

Capital Markets and Investment Funds: Brazil has structured investment vehicles such as FIP Private Equity Investment Funds, FIDC Credit Investment Funds and Fiagro funds focused on the agroindustrial chain, allowing institutional and individual investors to participate in startup funding with diversified risk exposure and, in certain cases, tax efficiencies for foreign investors.

Central Bank and CVM Regulatory Sandbox: Enables financial and technological innovation by allowing new business models in the financial and capital markets to operate in a controlled regulatory environment, benefiting companies seeking alternative funding structures.

Brazil presents both opportunities and complexities for obtaining investment. While the overall tax burden remains significant, the recent reform modernizes the indirect tax system by introducing a unified value added tax model aligned with international standards, while preserving corporate income taxation at the federal level and maintaining targeted incentives for innovation and strategic sectors.

WHAT ELSE?

Opening of Fintech and Insurance Markets: Brazil has undergone significant regulatory changes to foster the growth of the fintech ecosystem, making it one of the most dynamic financial markets in Latin America. The Central Bank of Brazil (BACEN) and the Securities and Exchange Commission (CVM) have introduced frameworks that facilitate the entry of new players, increasing competition and innovation. BACEN created a legal framework for Direct Credit Companies (SCDs) and Peer-to-Peer Lending Companies (SEPs), allowing fintechs to operate as digital lenders without the need for traditional banking intermediaries. Additionally, the implementation of Open Banking and PIX, Brazil's instant payment system, has further democratized financial services, enabling fintechs to compete with established banks. The Regulatory Sandbox Program, launched by BACEN and CVM, also provides fintechs with a controlled environment to test innovative financial solutions. These regulatory advancements have significantly lowered barriers to entry and created new investment opportunities for startups in the financial sector. Similarly, the insurance sector has seen increased regulatory flexibility with the introduction of Open Insurance, regulated by the Superintendence of Private Insurance (SUSEP), allowing insurtechs to develop personalized and digital-first insurance solutions. These advancements in both the financial and insurance markets have significantly lowered barriers to entry and created new investment opportunities for startups in these regulated sectors.

WHAT ELSE?, CONT'D

Cryptoassets: Brazil has also advanced in the regulation of virtual assets (cryptoassets), establishing a legal framework that defines virtual asset service providers (VASPs) and assigns supervisory powers to the Central Bank. Companies operating crypto exchanges or offering related services must comply with licensing, anti-money laundering, and consumer protection obligations.

Portuguese Language Requirements: It is generally acceptable to enter into contracts in another language (e.g., English); however, if the contract is to be taken to any Brazilian authority, including courts, only versions in Portuguese or sworn translations will be accepted. It is also important to mention that both the Consumer Defense Code and the General Data Protection Law require that any information be presented in Portuguese and a precise and clear manner.

Strict jurisdiction: Brazilian courts are rather strict regarding protecting consumers, employees, and data subjects. The risk of non-compliance in these fields of law is rather high for businesses. It is thus recommendable to focus on these topics first when rolling out a business in Brazil.

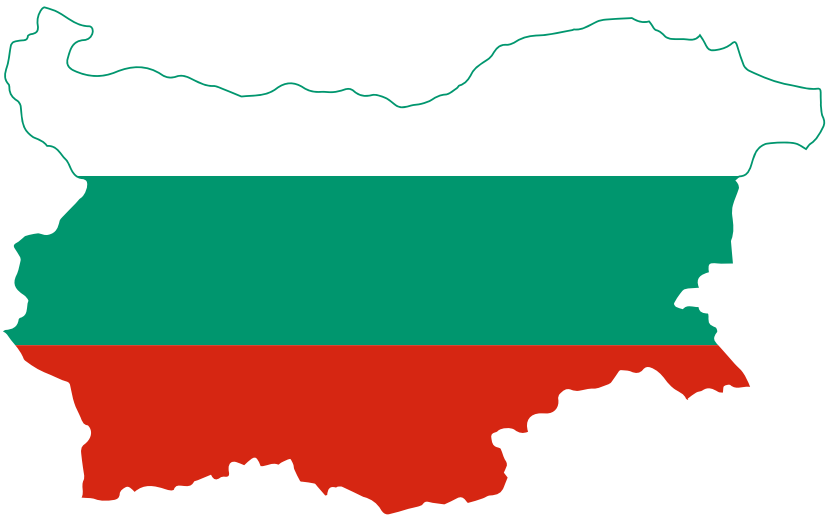
E-Commerce: E-Commerce Law No. 7962/2013 regulates e-commerce activities in Brazil. In this context, every online store, marketplace, and other similar formats that sell products or some type of service over the web need to follow the terms of the legislation to avoid headaches strictly. This law is an extension of the Consumer Defense Code but more focused on the digital universe.

The Brazilian Civil Framework of the Internet: Law No. 12.965/2014, known as the Internet Civil Framework, establishes the rights and duties of users and service providers on the internet in Brazil. This legislation aims to ensure net neutrality, protect personal data privacy, and uphold freedom of expression, while also regulating the use of access logs and the liability of providers for third-party generated content. The Internet Civil Framework stipulates that the processing of information must respect the principles of transparency and privacy protection. Companies offering internet services are required to ensure data security and allow users to access and control the information collected. In 2025 the Brazilian Supreme Court (STF) has recently declared Article 19 of the Internet Civil Framework partially unconstitutional. While the provision originally established that internet platforms could only be held liable for third-party content if they failed to comply with a prior judicial removal order, the STF recognized that, in certain circumstances — particularly involving unlawful content such as hate speech, incitement to violence, or serious violations of fundamental rights — platforms may be required to act upon notice without the need for a prior court order. As a result, the traditional "judicial order only" model has been mitigated, and platforms are expected to adopt more proactive monitoring and risk mitigation measures. This decision significantly increases compliance and litigation risks for digital platforms operating in Brazil.In addition, Brazil has recently enacted specific legislation strengthening the protection of children and adolescents in digital environments (ECA Digital), establishing enhanced duties for digital platforms, age-appropriate design standards, and stricter rules concerning advertising and data processing involving minors.

WHAT ELSE?, CONT'D

Fixed-odds betting: The regulation of fixed-odds betting has also introduced a licensing regime and stricter rules on advertising, responsible gambling, and consumer protection, reinforcing the application of the Consumer Defense Code to betting operators and related digital platforms.

Furthermore, legislative discussions continue regarding the regulation of video-on-demand and streaming services. Bill of Law No. 2,331/2022 ("Streaming Bill"), currently under review by the Chamber of Deputies after approval by the Federal Senate, proposes the establishment of obligations for on-demand audiovisual platforms, including potential Brazilian content quotas and contributions to the National Film Fund (Condecine), which may impact international streaming providers operating in Brazil.Software: Law No. 9,609/98 guarantees the software creator the same protection of intellectual property endorsed to authors of literary works. The device deals with software protection and its ballot and stipulates rights and duties about use. Software protection in Brazil does not result from registration and lasts 50 years from January 1st of the year after its creation. Infringement of software rights is subject to sanctions ranging from fines to imprisonment. The law also regulates software ownership created during an employment or contractual relationship. If the employee or contractor has created the software during contractual and employment relationships, commercial exploitation will be the responsibility of the employer/contractor. Although not mandatory, the registration of software can be made with the INPI.



BULGARIA

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LEGAL FOUNDATIONS

Bulgaria follows the civil law system. It relies on the written statutes and other legal codes in the field of public, private and criminal law that are constantly updated.

Bulgarian public law covers the relationship between individuals and the Bulgarian state and is enforced by administrative bodies (eg. trade license requirements, taxation) which are subject to judicial review by the administrative courts.

Private law governs the relationship between individuals (eg. contracts, warranty, liability, etc.) and is partially codified in various codes and laws. Some important sources of law in this context are the Obligations and Contracts Act, the Property Act, the Commercial Act, the Labour Code etc. There are many more laws for each specific field (eg. family relations, inheritance, e-commerce, copyright etc.).

Criminal law is codified in the Criminal Code and the Criminal Procedural Code.

However, final decisions, such as of the Supreme Cassation Court and the Supreme Administrative Court are often used as supporting arguments and must be generally considered by lower courts. The legal structure is thus also further developed by case law.

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Bulgarian Law provides the following forms of companies:

Capital Companies

The Bulgarian limited liability company (**OOD, Дружество с ограничена отговорност**) is the most preferred form of company in Bulgaria. Its core characteristics may be summarized in the following manner:

- It requires at least one shareholder (individual or legal entity) for its incorporation.
- Further, the shareholders have to draw up and sign articles of association and minutes/decision for its incorporation which require an ordinary written form. Then, the director(s) or their attorney/proxy have to file an application with the Bulgarian commercial register together with a notarized specimen of their signature and certain declarations.
- The OOD has a minimum statutory capital of EUR 1. The shareholders must pay in at least 70% of the capital for the company to be registered. The capital can be "paid in" in the form of kind contribution of tangible or intangible assets (equipment, real estate, transferable intellectual property, receivables, etc.).
- The founders can start the commercial activities even before the company is registered but will be jointly liable for any obligations until the company is registered.

ADVANTAGES

- Limited liability of the shareholders
- Director(s) is/are bound by the instructions of the shareholders.
- Very low minimum statutory capital.

DISADVANTAGES

- Shares are transferred with a written contract with notarized signatures.
- A shareholder can be expelled from the company by the other shareholders.

Further, there is a possibility to establish a Bulgarian joint stock company (**AD, Акционерно дружество**) by one or more shareholders (individual or legal entity). This requires a capital of EUR 25,000 of which at least 25% has to be paid in at the time of filing the application for registration and the rest not later than 2 years thereafter. The AD must form a Management Board which consists of at least three members (can be individuals or legal entities) and if the company decides, a supervisory board can be established with at least three members.

ADVANTAGES

- Limited liability of the shareholders
- Board members are bound by the instructions of the shareholders.
- Relatively low minimum statutory capital
- Allows easier funding by investors and greater flexibility in the balancing of the interests of founders and investors

DISADVANTAGES

- Requires at least three members of the management board.
- Relatively higher costs for setting up and maintaining the company compared to the OOD.

CORPORATE STRUCTURES, CONT'D

Capital Companies, CONT'D

In 2023 a new type of company – the variable capital company (**DPK, Дружество с променил капитал**) was introduced, and the ability to register a DPK became available after the 15th of December 2024. A DPK may be established by one or more shareholders (natural or legal persons), and it has the following characteristics:

- Annual turnover of up to EUR 2,045,000 and/or the value of its assets being valued at up to EUR 2,045,000 and
- Up to 50 employees.

In case one of the characteristics mentioned above are exceeded, then the DPK must be transformed into an OOD or an AD, otherwise it will be subject to a winding up procedure.

The main difference between (i) the DPK on one hand and (ii) the OOD and AD on the other is that the capital does not need to be paid in to register the company, rather each year at the time the annual budget is being voted on, a decision is made in which the capital, for the period up until the end of the fiscal year, is determined.

Another benefit of the DPK is that it has the benefits of the system for share issuing similar to the AD and can issue privileged shares, which have a different denomination or may bring with them various additional rights described in the Articles of Association (for example, more than one vote or veto rights, right to guaranteed additional dividends, etc.).

ADVANTAGES

- Limited liability of the shareholders
- No minimal capital is required to set up the company.
- Allows easiest funding by investors and greatest flexibility in the balancing of the interests of founders and investors.

DISADVANTAGES

- Must be transformed into an AD or OOD once certain thresholds of number employees and relatively low turnover/asset value are reached.

CORPORATE STRUCTURES, CONT'D

Partnerships

Apart from the OOD and AD, the most common forms of partnerships for businesses are the general partnerships (**SD, Събирателно дружество**) and the limited partnerships (**KD, Командитно дружество**) and limited partnership with shares (**KDA, Командитно дружество с акции**). As to the requirements:

- For both the SD and the KD the establishment requires a partnership agreement with notarized signatures between at least two partners (individuals or legal entities).
- For its incorporation a SD, a KD and a KDA must both be entered into the commercial register.
- The partners in the SD are jointly and personally liable with their personal assets and property.
- In the KD and the KDA there are two types of participants: (i) general partners, who have unlimited liability, and (ii) limited partners in the KD or shareholders in the KDA, whose liability is limited to the investment they have made in the KD respectively the KDA.
- The founders can start the commercial activities even before the partnership is registered but will be joinly liable for any obligations until the partnership is registered.

ADVANTAGES

- Certain benefits from tax law perspective in a very limited number of cases

DISADVANTAGES

- Unlimited liability; this applies to all partners in an SD and only to the general partners in a KD and KDA

Another form of a partnership is the civil law partnership (**DZZD - Дружество по Закон за Задълженията и договорите**). Its establishment requires at least 2 persons who have common resources and who pursue a common business purpose. The partners are fully and personally liable with their personal assets. Due to the lack of legal personality, the DZZD cannot be registered with the commercial register. In sum, it is thus also not very attractive for start-ups.

Sole Trader (ET, Едноличен търговец)

The sole trader is also a possible legal form to do business in Bulgaria. The owner of the business is a single natural person. A natural person becomes a sole trader upon registration in the commercial register. The sole trader is fully and personally liable with his or her private and business assets.

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STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Bulgaria's foreign direct investments screening mechanism implements the EU's Foreign Direct Investment Regulation (the "Regulation"). Under local rules any investments (i) coming from investors from countries which are not members of the European Union (ii) which exceed EUR 2 million or represent an indirect acquisition of an interest of 10% or more in (iii) undertakings active in certain critical sectors (utilities, tech, defence, supply of critical resources, etc.) are subject to preliminary approval.

As per the Regulation, the contact point that communicates with the EU and, which oversees the screening mechanism is the Interdepartmental Council for Screening of Foreign Direct Investments to the Council of Ministers ("The Council"). The Council may prohibit the transaction if there is a threat to national security or public safety. Such risk will be evaluated in review proceedings, which may last up to 75 days. If the Council does not issue a decision within the set deadline the investment will be considered approved. By way of exception from the above general rules, investments coming from the following countries are treated in the same manner as investments coming from EU Member States: USA, UK, Canada, Australia, New Zealand, Japan, Korea, UAE and Saudi Arabia.

There are also certain limitations for investments coming from companies registered in offshore jurisdictions. Such companies are in general prevented from applying for access to public resources such as certain types of licenses, concessions, public procurement procedures, etc. unless they meet certain transparency and ultimate beneficial ownership requirements. Furthermore, investors from certain countries are subject to mandatory screening regardless of the general thresholds.

Conducting a foreign direct investment without prior approval of the Council may result in a fine of 5% of the investment's value but not lest than a minimum of EUR 25 560. It is also within the powers of the Council to impose measures to unwind the investment.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign which can be represented graphically and is able to distinguish the goods and services from other companies can be registered as a trademark.

Where to apply? Trademarks can be filed either with (i) the Patent Office of the Republic of Bulgaria (BPO), (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application to the BPO can be filed online (https://portal.bpo.bg/tm-e-filing). The BPO then reviews the application. The application goes through two checks. The first check relates to whether all the formal legal requirements for the proper processing of the application have been met. If incorrect, applicants are given a period to correct their application. The second check relates to the sign itself. The BPO verifies that none of the absolute grounds for refusal are applicable. This check is carried out within 2 months of the completion of the formal check. With publication in the Trademark Gazette, a three-month opposition period begins. Within this time period third parties can easily and at low costs oppose the trademark.

Duration of protection? Trademarks are registered for a period of 10 years from the date of filing the application for registration. Registration may be renewed an unlimited number of times for consecutive 10 years period.

Costs? In Bulgaria a trademark may be registered for Good and Services in each of the 45 classes from the Nice Classification, established by the Nice Agreement. Depending on the number of classes the costs differ. The range of the costs is between EUR 265,87 and EUR 910,15. In addition, fees of the legal representative apply.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? IInventions in the field of technology are patentable. This requires that the invention is novel, not obvious to a skilled professional and can be applied in industry.

Where to apply? Patent protection will be granted only per country, meaning that applicant must register the patent in each country where protection is sought. The only exception is the Unitary European Patent, which enteredinto force on 1st of June 2023. Bulgaria is one of the 18 Member states that have ratified the European Patent Convention, i.e., a Unitary European Patent will have an effect on its territory. Patent applications can be filed with either the BPO, European Patent Office (EPO) or WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection is in any case a maximum of 20 years from application and must be maintained by annual fees.

Costs? Application costs for Bulgarian patents may differ depending on many factors such as the number of the inventions, the number of pages of the description of the invention, Priority claimed from a previous request etc. The Bulgarian law also provides for various financial reliefs in certain circumstances (ex.:50% discount for individual inventers, micro- and small enterprises, etc.), the costs varies broadly. The price for an application with up to 10 pages and up to 10 claims without any discounts would amount to approx. EUR 130. The cost for maintaining the validity of the patent grows significantly through the years starting at EUR 20,45 for the 1st year and ending at EUR 869,20 for the 20th. In addition, fees for the legal and technical representative apply.

Employee invention and inventor bonus? According to the Bulgarian Patent legislation, employers are entitled to file patent applications for all inventions made in connection with the employee's work for a 3-month term as of the received notification for the invention from the employee. After the 3-month term has expired the right of application is transferred by operation of law to the employee. If the employer makes use of the right during the 3-month period, the employee is entitled to an appropriate inventor bonus. The bonus is determined primarily by the value of the invention and is thus subject to adjustments in the course of the patent lifetime.

Utility Model

What is protectable? The legal protection granted by utility model registration applies to inventions in all fields of industry and technology A major difference and advantage is the 12-month novelty grace period for own publications.

Where to apply? See comments on patent applications above.

Duration of protection? The term of the utility model registration is four years from the date of filing of the application. It may be extended for two successive periods of three years each, i.e., a total term of protection not exceeding ten years from the date of filing of the application.

Costs? Application costs may vary depending on who the applicant is and the number of pages of the description of the utility model. The lowest application cost is EUR 102,25. In addition, fees of the legal and technical representatives apply.

BULGARIA

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? The visible appearance of a product or part of a product determined by the characteristics of its shape, lines, design, ornamentation, colour or combination of all of the above.

Where to apply? Applications for registration of a Bulgarian industrial design may be filed with the BPO directly, by mail, by fax or electronically. The Application may also be filed with either the European Patent Office (EPO) or WIPO.

Duration of protection? The validity of the Bulgarian registration of an industrial design is 10 years from the date of filing of the application for a Bulgarian design. The registration may be renewed for 3 consecutive periods of 5 years, up to a maximum of 25 years from the date of application.

Costs? Application costs for designs amount EUR 35,79.- plus an additional fee of EUR 17.90 per class for a single design application. In addition, fees of the legal representative apply.

The following IP rights cannot be registered:

Copyright

What is protectable? Any literary, artistic and scientific work resulting from a creative endeavor and expressed by any mode and in any objective form is the object of copyright according to the Bulgarian Copyright and Related Rights Act. Copyright protection is granted immediately with the creation of a work. No registration and no label required.

Duration of protection? Copyright protection ends 70 years after the author has passed away.

Exploitation of copyright protected work? Typically, the copyright in a work created in the course of an employment or service relationship belongs to the author. The employer may, however, benefit from the creation without the need to compensate the author and/or may be considered a copyright holder, depending on the contract. By Exception the copyright holder of computer programs and databases, created under an employment relationship, is the employer. The author may grant third parties non-exclusive or exclusive rights to use the work.

Trade Secrets

What is protected? Trade secrets as such are not recognized as an intellectual property asset. However, the Competition Protection Act and the Trade Secret Protection Act protect know-how and business information of commercial or technological value that is kept secret. Examples for such information are formulas, practices, processes, designs, patterns, method of marketing, or combination of similar information that is not publicly known or available with reasonable effort and by which a business enterprise can obtain an economic advantage over competitors or customers.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

BULGARIA

DATA PROTECTION/PRIVACY

Bulgarian law plays the role of complementing and specifying the GDPR. Of practical relevance for business are the rules of the Data Protection Act, which are related to data protection in the context of employment relationships. They aim to limit the amount of sensitive data that employers collect and the time for which the data of unsuccessful job applicants is processed. The legislator also focuses on the drafting of written rules and policies on the processing of personal data both in the workplace context and in any case of large-scale and systematic collection of information.

- The age for child's consent in relation to information society services has been lowered from 16 years to 14 years.
- An important rule is that the copying of identity cards or driving licenses is not allowed unless provided for by law.
- Special rules are also foreseen for the processing of personal data for journalistic, scientific, and literary purposes. The main rule provides that processing in these cases must be done after balancing freedom of expression with the right to information and the right to protection of personal data.
- If an employer uses breach reporting systems or access control systems to monitor working time and discipline, and if it has restrictions on the use of internal resources, it must adopt specific rules and procedures for the data processed and make them known to its employees.
- Employers must set a retention period for job applicants' personal data. According to the law, it must be a maximum of 6 months, unless consent is given for a longer period.
- There is a fine for violation of the Personal Data Protection Act in the amount of EUR 2,556,46 and in case of repeated violation the fine is double. The main difference with GDPR is the different time limit for the controller to respond to the data subject upon request and exercise of his rights. According to the GDPR this period is 1 month, while the PDPA extends it to 2 months.
- Phone calls and electronic messages for advertising purposes require the data subject's prior consent. Consent for electronic messages is not required, if the controller has received the personal data in connection with a transaction, the marketing communication concerns similar products and services, and the data subject has been given the opportunity to opt-out when data has been collected for this purpose as well as with every communication (soft-opt-in under the ePrivacy Directive).
- Prior consent is required for setting cookies which are not necessary for the provision of the service, irrespective whether personal data is processed or not. Thus, opt-in is required for all marketing cookies.

The Commission for Personal Data Protection (CPDP) is the competent supervisory authority. The commission deals with all kinds of violations connected to personal data in all areas. It provides additional advice relating to the processing of personal data, and in certain cases this advice is mandatory. It regulates processing operations carried out by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and it also specifies the types of processing activities that the Commission may consider posing a high risk to the rights and freedoms of data subjects.

BULGARIA

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STARTUP LEGAL PLAYBOOK

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Bulgaria yet. However, the general restrictions, particularly under **data protection and copyright law** apply. In the future, a national AI-agency will oversee the application of the EU's **AI Act** in Bulgaria but this has not been designated yet.

- The principles of data protection law – in particular Art 22 GDPR for automated individual decision-making – must be observed in relation to the development, testing and operation of AI. Thus, the use of AI must not lead to any legal or similarly serious effects to the data subject, without any human intervention. An automated decision-making process is for example assumed, if a company uses results of an AI-application without any further quality-check and assessment.
- National copyright restrictions are particularly relevant for generative AI. This applies to both (i) the input data (especially web scraping) and (ii) the output of the specific AI application: The retrieval of data from the internet into set of training data is considered exploiting the content in a way subject to the Bulgarian Copyright and Neighboring Rights Act which in general allows such retrieval unless forbidden by the right owner in an appropriate way. The output of AI may infringe the rights of the author of the original if the output is identical to or resembles an original source.

EMPLOYEES/CONTRACTORS

General: The relationship in the provision of labour should be governed only as an employment relationship. An employment contract should be concluded in writing between an employee and an employer. The law requires that the employment contract be concluded before the work commences, i.e. before the actual performance of the work commences. Nevertheless, if this requirement is not met and there is no concluded employment contract before the work commences, the individual is still considered an employee and there is a valid employment relationship. The employer however will face an administrative sanction for not complying with mandatory legal norms. A company may also offer a contractor agreement (freelance contract) but only for a particular piece of work or certain service for a relatively limited time. If it is found that the freelance contract is used to hide an employment relationship these contracts will be treated as employment agreements and the employer will be sanctioned.

No work for hire regime: There is no work for hire regime in Bulgaria. Bulgarian Law explicitly distinguishes the figures of author and copyright holder. Copyright in a work created in the course of an employment belongs to the author. However, the employer has the economic rights to use the work without paying further remuneration to the employee. In case however the economic benefits for the employer for utilizing the works (other than computer programs) of the author is manifestly disproportionate to the remuneration paid to the employee/author for creating such works, the latter can request additional remuneration. However, generally the law does not allow the employer to obtain the moral right of copyright, namely, to be called the author of the work. In the case of a freelance contract there should be a clause covering the rules for allocating the copyrights and licensing of works created by the contractual partners. Such clause should be as specific as possible, as otherwise courts will usually interpret the grant of rights in a quite restrictive manner and there is significant risk that the created IP (including the economic rights) is vested in the contractor/freelancer.

Registration with social security: Every employer must register employees with the government social security scheme plus a private mandatory social insurance carrier. Further, each employer has to pay a certain monthly amount based on the employee's remuneration into the social security system.

Termination: Employees are very well protected. The employer can terminate a contract only in certain circumstances listed in the Labour Code which are quite strict must be clearly evidence by the employer (for example continued reduction of the volume of work of the company, closing down of the employees' position, persistent inability of the worker to perform its duties, etc.). In addition, the employment contract of a female factory or office worker, who is the mother of a child, an occupational-rehabilitee factory or office worker, a factory or office worker suffering from a disease designated in an ordinance of the Minister of Health etc. can be terminated only after the permission of the Labour Inspection. In all cases of an illegal termination of a contract the employee can seek legal redress and be restored to work and compensated.

BULGARIA

CONSUMER PROTECTION

The consumer protection in Bulgaria is regulated in various laws which are mostly based on the latest EU legislation, such as the Consumer Protection Act, the Provision of Digital Content and Digital Services and for the Sale of Goods Act, the Electronic Commerce Act, Commerce Act, Civil Procedure Code etc. and some sector specific legislation – Insurance Code, Electronic Communications Act, Provision of Financial Services from a Distance Act, Consumer Lending Act, etc.

The **core provisions** are laid down in the Consumer Protection Act. They include:

- Right to information about goods and services.
- The right to protection against risks from the acquisition of goods and services that may endanger consumers' life, health, or property.
- The right to compensation for damage caused by defective goods.
- Right to protection of economic interests.
- The right of access to judicial and non-judicial procedures for the resolution of consumer disputes.
- Right to compensation for damage caused by defective goods.

All consumers have the right to cancel a contract concluded at a distance (over the phone, on the Internet, etc.). The right of withdrawal may be exercised within 14 days without giving any reason for the consumer's decision and without the consumer being liable for damages or penalties. This period starts to run (1) from the date of conclusion of the contract, where the subject matter of the contract is the provision of services, or (2) from reception of the goods by the consumer. The trader must inform the consumer of his right of withdrawal, including the time limit and the form in which he may exercise it. If the trader has not complied with this obligation, the period for exercising the right of withdrawal extends by one year.

The enforcement of consumer protection legislation is done by the Consumer Protection Commission and a number of sectorial regulators which have quite broad powers for example to resolve consumer related disputes, impose sanctions, block the sale of harmful goods, ask for amendment of the terms and conditions of the merchants, make inspections, file class actions, etc.

There are some consumer protection associations in Bulgaria which however are not very active compared to similar organizations in other EU member states. These associations are not-for-profit entities. Their main function is to alert the relevant public authorities – usually the Consumer Protection Commission and sectorial regulators in the event of breaches of consumer rights, to propose to all inspection bodies the carrying out of checks, analyses and tests of goods and services, to assist in the resolution of disputes arising between consumers and traders, to conclude collective agreements with traders' associations, to file class actions for suspension of violations of consumer protection legislations and class actions for compensations on behalf of consumers, etc.

BULGARIA

TERMS OF SERVICE

Yes. Terms of services become enforceable only if consumers have explicitly agreed to the terms (preferably via a tick-box) and had the possibility to read, print and store them upfront. Further, clauses must be in compliance with stringent consumer protection laws. According to the Consumer Protection Act, particularly the following clauses in terms and conditions or other contracts are held invalid:

- for unilateral amendment of the contract by the merchant in cases which have not been explicitly agreed in the contract;
- for automatic renewal of the contracts in case the consumer does not object before an unreasonably early moment in time before the renewal date;
- for discharging the merchant from liability for death or injury of the consumer;
- for demanding excessive penalties from the consumer;
- for excluding or restricting the statutory rights of consumers in case of breach by the merchant;
- for forcing consumers to accept clauses which have not been made known to them in advance;
- for allowing the price to be determined when the goods/service are received and not when they are ordered without the right of the consumer to terminate the contract in case of significant price increase;
- for obliging the consumer to fulfil its obligations under the contract even if the trader has not fulfilled his;
- for allowing the trader to transfer its rights and obligations under the contract without the consumer's consent;
- for effectively excluding the consumer's ability to sue, etc.

TAX/FUNDING

Bulgaria offers a competitive tax environment with clear regulations for investors and start-ups. The corporate income tax rate is 10% and applies to all entities operating in Bulgaria under the Corporate Income Tax Act (Закон за корпоративното подоходно облагане). There is a 5% withholding tax on dividends for non-EU residents, but exemptions exist for EU/EEA parent companies.

The standard VAT rate is 20% under the Value Added Tax Act (Закон за данък върху добавената стойност). VAT registration with the National Revenue Authority is mandatory for businesses exceeding EUR 51 130 in taxable turnover.. Personal income tax is a flat 10% for residents on worldwide income, while non-residents are taxed only on Bulgarian-source income as per the Personal Income Tax Act (Закон за данъците върху доходите на физическите лица). It is important to note that Bulgaria has over 70 bilateral tax treaties to prevent double taxation and to provide tax credits or exemptions.

Social security and health insurance contributions total about 32.7%–33.4% of gross salaries up to a maximum insurance income cap which is set up by the parliament every year, EUR 2111.64 (expected to be about EUR 2352 per month in 2026 and to grow in the next three years), with employers covering 18.92%–19.62% and employees 13.78% as per the Social Security Codex (Кодекс за социалното осигуряване).

Tax incentives include deductions for R&D expenses, depreciation (depending on the type of asset, depreciation varies between 4% and 50% per annum), and charitable contributions (up to 10% from the annual profit) as per the Corporate Income Tax Act.

Deals between related parties must be conducted on arm's length terms. To ensure compliance, Bulgarian law mandates that a local file, detailing domestic transactions, and a master file, covering multinational transactions, conducted between all related parties, must be prepared annually, with penalties for non-compliance.

TAX/FUNDING, CONT'D

In 2024, Bulgaria was ranked 37th globally in the Global Startup Ecosystem Index, which has positioned the country as the leader on the Balkans for startup creation. There are various opportunities for startups seeking funding and subsidies such as:

- **National Innovation Fund**[1] (link) – the main goal of the Fund is to promote R&D and over competitevness. It is administered by the Bulgarian Small and Medium Enterprises Promotion Agency. The grants cover:
  - Scientific, research and development projects –the maximum grant is EUR 255,623 for a period of implementation from 12 to 36 months
  - Projects for technical feasibility – for those projects the maximum grant is up to EUR 25,562 for a period of implementation up to 1 year.
- **Bulgarian Bank for Development** (link) – A state-owned bank, which crated to promote economic growth and sustainable investment in support of SMEs by offering various financial products, including loans and guarantees to support startups and SMEs in Bulgaria.
- **Startup Sofia Accelerator** (link) – Managed by the Sofia Municipality, this is a 3-month program for startups that offers mentoring, institutional support, access to shared workspaces and grants of up to EUR 5,112.
- **EEA and Norway Grants** (link) – The national contact point is the Central Coordination Unit Directorate at the Council of Ministers of Bulgaria, this program offers funding opportunities to reduce economic and social disparities.

[1] Data accurate for last NIF call in 2022. Call for 2026 not yet announced.



CAMEROON

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CAMEROON

LEGAL FOUNDATIONS

Cameroon operates under a **hybrid legal system**, reflecting its dual colonial heritage. The legal framework blends **civil law**, derived from French legal tradition, and **common law**, inherited from British administration. As a result, the country functions under two coexisting legal traditions:

- **Civil law** applies in **eight of the ten administrative regions** (the Francophone regions) and is primarily based on codified statutes and written legislation.
- **Common law** applies in the **North-West and South-West regions** (the Anglophone regions), where judicial precedent and case law play a central role in legal interpretation.

Cameroon is constitutionally structured as a **unitary state**. While the country has undertaken notable decentralisation reforms in recent years, there are **no federal, state, or provincial jurisdictions**. Legislative authority remains centralized at the national level. Regional and municipal councils exist primarily as administrative bodies, exercising limited regulatory and implementation powers rather than autonomous law-making authority.

In the area of business and commercial law, Cameroon is a member of the **OHADA Treaty (Organisation pour l'Harmonisation en Afrique du Droit des Affaires)**. OHADA law applies uniformly in Cameroon alongside 16 other member states in Central and West Africa, providing a harmonised legal framework governing company law, commercial transactions, securities, insolvency, arbitration, and enforcement of judgments. OHADA Uniform Acts prevail over conflicting national legislation in their respective subject areas, offering legal predictability for investors and cross-border transactions.

Beyond OHADA, several **national laws apply uniformly across all ten regions**, ensuring consistency in key regulatory areas. These include, inter alia:

- **The Penal Code and the Criminal Procedure Code** – which establish criminal offences, sanctions, and procedural rules applicable nationwide.
- **The Labour Code (1992)** – governing employment relationships, collective bargaining, termination procedures, and employee protections.
- **The Investment Code** – setting out incentives and guarantees applicable to both domestic and foreign investors.
- **The Consumer Protection Law (2011)** – regulating fair commercial practices and safeguarding consumer rights.
- **The Cybersecurity and Cybercriminality Law (2010)** – addressing data protection, electronic transactions, cyber offences, and digital security.
- **The Environmental Management Law** – establishing obligations relating to environmental protection, sustainability, and corporate environmental responsibility.
- **The General Tax Code** – defining taxation rules, applicable rates, exemptions, and compliance obligations for individuals and businesses.
- **The Public Procurement Code** – regulating the award and execution of public contracts and promoting transparency in government procurement.

Taken together, this framework combines national legislation, regional harmonisation under OHADA, and dual legal traditions, creating a distinctive but well-defined legal environment for businesses operating in Cameroon.

CAMEROON

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

When establishing a business in Cameroon, entrepreneurs and startups must choose the legal form that best matches their **liability preferences, capital needs, management style, and long-term growth plans**. Under Cameroonian law, corporate structures are governed by the **OHADA Uniform Act on Commercial Companies and Economic Interest Groups**, which applies uniformly across Cameroon and other member states in West and Central Africa.

Below are the most relevant entities a startup might consider:

Société à Responsabilité Limitée (SARL) – Private Limited Company

This is the most commonly used form for small and medium-sized enterprises (SMEs) and startups. It offers **limited liability** to its shareholders, protecting personal assets from business debts. A SARL can be formed by **one or more shareholders**, who may be individuals or corporate entities. A minimum share capital is required (often around **CFA 1,000,000** in practice, subject to regional practices), divided into shares. Management is flexible, typically by one manager.

Société Anonyme (SA) – Public Limited Company

The SA is suitable for startups with **ambitious growth or capital-raising plans**. It is designed for larger operations and may issue shares to investors. The **minimum share capital** is typically **CFA 10,000,000**. An SA must appoint a board of directors and may be subject to more rigorous regulatory and audit requirements than a SARL, particularly if it is to be publicly listed.

Société par Actions Simplifiée (SAS) – Simplified Joint Stock Company

Although less commonly used than SARLs and SAs, the SAS offers **great flexibility** in governance and capital structure, making it attractive for innovative startups seeking customisable internal rules and arrangements between founders. Under the OHADA regime, this entity type allows freedom to determine management and decision-making structures in the company's articles.

Société en Nom Collectif (SNC) – General Partnership

In an SNC, **all partners share unlimited personal liability** for business debts. While this structure allows direct involvement of partners in management, the absence of liability protection makes it less suitable for startups seeking to limit owner risk.

Société en Commandite Simple (SCS) – Limited Partnership

An SCS combines **general partners** (with unlimited liability and management control) and **limited partners** (liable only up to their contribution). This structure can be useful where outside investors seek to contribute capital without taking an active managerial role.

Entreprise Individuelle (Sole Proprietorship / Establishment)

This is the simplest form of business for a single owner who takes **full personal liability** for the business. There is no separate legal personality, which reduces start-up formalities but exposes the owner's personal assets to business risks.

Groupement d'Intérêt Économique (GIE) – Economic Interest Group

A GIE is not a separate company but a **cooperative arrangement** among businesses to pool resources, share services or collaborate without forming a commercial company. It is often used for joint projects or to achieve economies of scale.

CORPORATE STRUCTURES, CONT'D

Branch of a Foreign Company (Succursale)

Foreign startups may enter the Cameroonian market by establishing a **branch** of their existing company. A branch operates under the parent company's legal framework but must be registered locally, appoint a resident representative, and comply with local tax and regulatory requirements. It may, however, be limited in duration before incorporation into a local company.

Representative Office

Foreign firms may also open a **representative office** to conduct **non-commercial activities** such as market research or promotion. It cannot engage in direct business transactions or issue invoices.

Cooperative Societies and Other Arrangements

Startups in sectors such as agriculture or community-based ventures may also choose **cooperative societies**, which are member-owned and member-controlled structures. These are typically governed under specific cooperative law and are suited to collaborative business models.

In practice, the choice of corporate structure in Cameroon is largely shaped by a startup's risk profile, growth ambitions, and operational simplicity. Most early-stage ventures prioritise **limiting founders' personal liability**, which explains the widespread preference for **SARLs** and, increasingly, **SASs**, given their flexibility and relatively light governance requirements. Where a business model anticipates significant external investment, rapid scaling, or more sophisticated capital-raising strategies, **SA or SAS structures** are often better suited to accommodate investor participation. For many small and medium-sized enterprises, the **SARL remains the default option**, offering an effective balance between legal protection and ease of incorporation and ongoing compliance. Foreign entrepreneurs must additionally consider whether to operate through a **local subsidiary, a branch, or a representative office**, with this decision typically informed by long-term commercial objectives, regulatory exposure, tax efficiency, and the intended scope of local operations.

ENTERING THE COUNTRY

Foreign investors are generally permitted to establish and operate businesses in Cameroon, subject to compliance with national investment, foreign exchange, immigration, and labour regulations. Cameroon maintains an investment-friendly framework, while retaining regulatory controls in certain strategic areas.

Regulatory Framework

Cameroon is a signatory to several **bilateral investment treaties (BITs)** and multilateral agreements aimed at protecting foreign investment and promoting economic cooperation. These instruments provide safeguards against unlawful expropriation and guarantee fair and equitable treatment of investors.

Capital transfers into and out of Cameroon are regulated within the **CEMAC monetary zone** and supervised by the **Bank of Central African States (BEAC)**. The **repatriation of profits, dividends, and loan repayments is permitted**, subject to compliance with applicable foreign exchange reporting and authorization requirements.

Foreign ownership of land is restricted. Direct acquisition of land by foreign individuals or entities generally requires prior authorization from the competent land administration authorities. In practice, foreign investors frequently rely on **long-term leases**, which may extend for up to **99 years**, as an alternative to ownership.

ENTERING THE COUNTRY, CONT'D

Investment Promotion and Administrative Support

Cameroon has established several institutions to facilitate foreign investment and streamline administrative procedures, including:

- the **Cameroon Investment Promotion Agency (CIPA)**, which assists investors with approvals, incentives, and administrative formalities;
- the **Business Creation Formalities Centre (BCFC)**, which serves as a one-stop shop for company incorporation;
- the **Support Council for the Realisation of Partnership Contracts (CARPA)**, which oversees public-private partnerships (PPPs);
- the **Chamber of Commerce, Industry, Mines and Handicrafts (CCIMA)**, which provides advisory and support services.

Investment Incentives and Priority Sectors

Cameroon offers tax and customs incentives under its investment regime, subject to eligibility and approval. Incentives may be granted under:

- a **Basic Schedule** (up to **eight years**) for enterprises meeting employment and export or local-content thresholds; and
- an **SME Schedule** (up to **ten years**) for qualifying investments meeting capital, employment, and Cameroonian shareholding requirements.

Priority sectors include **agriculture, manufacturing, renewable energy, tourism, technology, and infrastructure development**. Foreign investors may also participate in **public-private partnerships**, particularly in infrastructure and energy projects. Cameroon has designated **Industrial Free Zones (IFZs)** offering tax relief and simplified procedures, notably in **Douala-Bonabéri, Yaoundé-Sud, Ombé, Garoua, and the Kribi Industrial Port**.

Business Establishment Formalities

Business establishment generally involves: (i) name reservation; (ii) preparation of Articles of Association under OHADA law; (iii) registration with the Trade and Personal Property Credit Register (RCCM); (iv) obtaining a Taxpayer Identification Number (TIN); (v) registration with the National Social Insurance Fund (CNPS); (vi) obtaining a business licence; (vii) opening a corporate bank account; and (viii) securing any sector-specific authorisations.

Immigration and Employment Considerations

Foreign investors and expatriate staff are subject to visa, residence, and work authorization requirements. Recent regulatory practice reflects a **strengthened emphasis on national employment protection**, particularly for strategic administrative roles. In particular, **Human Resources management functions must be exercised by Cameroonian nationals with effective decision-making authority at the local level**. While foreign professionals may participate in regional or group-level coordination, supervisory authority over local employment matters must remain vested in a Cameroonian officer. Employment contracts involving foreign nationals are subject to prior validation by the competent labour authorities.

ENTERING THE COUNTRY, CONT'D

Investment Guarantees and Dispute Resolution

Foreign investors benefit from additional safeguards, including **double taxation agreements**, statutory protection against unlawful expropriation, and access to **international arbitration**, notably through **ICSID** and arbitration mechanisms under **OHADA law**.

INTELLECTUAL PROPERTY

Cameroon is a member of the **African Intellectual Property Organization (OAPI)**, a regional system that centralises the registration and protection of intellectual property rights across **17 member states**. As a result, IP rights registered through OAPI are **automatically valid and enforceable in Cameroon** without the need for separate national filings. Enforcement efforts are supported by the **National Committee for the Fight Against Counterfeiting (CNLCC)**, which works in coordination with customs and other authorities to combat infringement.

Trademarks may be registered through OAPI and are protected for an initial period of **ten (10) years**, renewable indefinitely. **Patents** are also registered at OAPI level and confer exclusive rights for **twenty (20) years**, subject to payment of annual maintenance fees. **Industrial designs** benefit from protection for an initial period of **five (5) years**, renewable up to a maximum of **fifteen (15) years**.

Copyright protection arises automatically upon creation, without registration formalities, and covers literary, artistic, and software works. Protection generally lasts for the author's lifetime plus **seventy (70) years** after death.

Cameroon does not have a standalone statutory regime governing **trade secrets**. In practice, trade secrets are protected through contractual mechanisms such as confidentiality clauses and non-disclosure agreements, which are enforceable under general contract law.

Cameroon is a member of the **Madrid System**, allowing trademark owners to seek international trademark protection through the World Intellectual Property Organization (WIPO). Domain names are administered by the **National Agency for Information and Communication Technologies (ANTIC)**, and businesses are expected to ensure that domain registrations do not infringe existing trademark rights.

Intellectual property rights may be enforced through civil and criminal proceedings, administrative measures, and customs action, including seizure of counterfeit goods. Disputes may be resolved before Cameroonian courts, through OAPI mechanisms, or by **arbitration under OHADA law**. Licensing, franchising, and technology transfer agreements are permitted, subject to compliance with OAPI rules, and registration of such agreements is recommended to strengthen enforceability.

DATA PROTECTION/PRIVACY

Cameroon does not have a comprehensive, standalone data protection statute comparable to the EU General Data Protection Regulation (GDPR). Instead, data protection and privacy are regulated through a combination of constitutional guarantees and sector-specific legislation, primarily addressing cybersecurity, electronic communications, and digital transactions.

Legal Framework

The principal legal instruments governing data protection and privacy in Cameroon include:

- **Law No. 2010/012 on Cybersecurity and Cybercriminality**, which establishes rules on the collection, processing, storage, and security of personal data and criminalises unlawful data exploitation and cyber fraud;
- **Law No. 2010/013 on Electronic Communications**, which regulates the handling of subscriber and traffic data by telecommunications operators; and
- The **Constitution of Cameroon**, which recognises and protects the right to privacy.

Together, these instruments form the core of Cameroon's data protection regime.

Key Obligations and Principles

Entities that collect or process personal data are required to ensure **confidentiality**, implement appropriate **technical and organisational security measures**, and prevent unauthorised access, disclosure, or misuse of data. As a general rule, personal data must be collected with the **prior consent** of the data subject, subject to limited statutory exceptions.

Data subjects enjoy basic rights, including the right to **access, rectify, and delete** their personal data. The legal framework also recognises the validity of **electronic transactions and digital contracts**, and requires the use of encryption and cybersecurity safeguards for online services.

Telecommunications operators and internet service providers are subject to particularly stringent obligations, including the **retention of certain metadata for up to ten (10) years** for security, investigative, and law-enforcement purposes.

Cameroonian law does not expressly prohibit **cross-border transfers of personal data**. However, businesses are expected to apply international best practices and ensure that adequate safeguards are in place when transferring data outside Cameroon.

Violations of data protection and cybersecurity obligations may attract **criminal sanctions**, including fines and imprisonment, especially where breaches involve cyber fraud, identity theft, or unlawful exploitation of personal data.

Regulatory Oversight and Sectoral Compliance

Regulatory oversight in this area is exercised primarily by the **National Agency for Information and Communication Technologies (ANTIC)**, which is responsible for cybersecurity enforcement and monitoring compliance with digital security standards. The **Telecommunications Regulatory Board (ART)** exercises sector-specific supervision over telecommunications operators.

Certain industries, notably **financial services, healthcare, telecommunications, and digital platforms**, are subject to heightened compliance expectations and additional data security obligations under sectoral regulations.

DATA PROTECTION/PRIVACY, CONT'D

International Alignment and Practical Considerations

While certain principles of the Cameroonian framework such as consent, confidentiality, and data security broadly align with international standards, the regime remains **fragmented and sector-driven**. Cameroon does not have a **dedicated Data Protection Authority**, and the current legal framework falls short of a GDPR-equivalent system.

In practice, companies operating in Cameroon are advised to adopt **internal data governance policies**, implement robust cybersecurity measures, and apply international compliance standards where personal or sensitive data is processed, particularly in cross-border or technology-driven operations.

ARTIFICIAL INTELLIGENCE

Cameroon does not yet have a comprehensive, binding legal framework specifically regulating Artificial Intelligence (AI). As of early 2026, AI-related activities are governed indirectly through existing legislation applicable to data protection, cybersecurity, electronic communications, consumer protection, and labour relations. These include, in particular, the **Cybersecurity and Cybercriminality Law (2010)**, the **Electronic Communications Law (2010)**, the **Consumer Protection Law (2011)**, and the **Labour Code (1992)**.

In practice, **data protection law forms the primary legal anchor for AI governance** in Cameroon, given the reliance of most AI systems on large volumes of personal data. The adoption of **Law No. 2024/017 on the Protection of Personal Data** in December 2024 has significantly strengthened this framework by introducing lawful processing requirements, enhanced data subject rights, regulatory oversight, and compliance obligations that are directly relevant to AI developers and deployers.

Despite the absence of AI-specific legislation, AI technologies are increasingly deployed across sectors such as **financial services (fraud detection and credit scoring)**, **healthcare (diagnostics and telemedicine)**, **agriculture (data-driven crop and climate analysis)**, **logistics**, and **digital public services**. These uses must comply with existing sectoral and data protection requirements.

From a policy perspective, Cameroon has taken a major step by adopting a **National Artificial Intelligence Strategy (SNIA 2040)** in mid-2025. While not legally binding, the SNIA serves as the government's official roadmap for AI governance and development. It outlines plans for AI governance and digital sovereignty, data infrastructure, human capital development, ethical and inclusive AI deployment, and explicitly calls for the **future adoption of a national legal and regulatory framework for AI**, including oversight and ethical safeguards.

At present, **key legal gaps** remain, notably with respect to algorithmic liability, automated decision-making rights, AI safety standards, and sector-specific risk classification. Oversight of AI-related cybersecurity and digital risks currently falls within the remit of the **National Agency for Information and Communication Technologies (ANTIC)**, with further institutional developments expected, including the possible creation of a dedicated AI authority.

Overall, Cameroon is transitioning from a **general digital-law approach to a policy-driven AI governance model**. While AI-specific compliance obligations similar to those found in the EU AI Act are not yet in place, businesses operating in Cameroon should anticipate progressive regulation and ensure early alignment with data protection, cybersecurity, and ethical AI principles.

CAMEROON

EMPLOYEES/CONTRACTORS

Employment relationships in Cameroon are governed primarily by the **Labour Code (1992)** and related regulations. Employment contracts must be in writing and may be either **fixed-term (CDD)** or **open-ended (CDI)**. Fixed-term contracts are limited to **two years, renewable once**, after which they convert into a CDI. Independent contractors may be engaged under service contracts, but they are **not covered by labour law protections**, and misclassification risks exist where subordination is established.

Cameroon does **not recognise a statutory "work-for-hire" regime**. Intellectual property created by employees or contractors belongs to the employer **only if expressly assigned by contract**. In the absence of clear contractual clauses, creators retain ownership, making IP assignment provisions essential.

Employers are required to **register employees with the National Social Insurance Fund (CNPS)** and make monthly contributions covering pensions, maternity, disability, and workplace injury.

Termination of employment is regulated and subject to **statutory notice periods** based on length of service, except in cases of serious misconduct. Unjustified dismissal may give rise to compensation, and certain categories of employees such as **pregnant employees, employees on parental leave, and employees with disabilities** benefit from enhanced protection and may require prior administrative approval before termination.

The employment of **foreign nationals** is subject to strict controls. Foreign employees must obtain a **long-stay visa**, a **residence permit**, and **prior validation of their employment contracts** by the Ministry of Employment before commencing work. Recent enforcement practice reflects a stronger emphasis on **national employment protection**, including restrictions on foreign nationals occupying certain strategic or administrative roles. Foreign workers are also subject to **exit visa requirements** prior to leaving Cameroon.

Standard working hours are **40 hours per week** (non-agricultural sectors) and **48 hours** in agriculture, with regulated overtime premiums. Maternity protection includes **14 weeks of paid maternity leave**, reimbursed through social security, along with statutory nursing breaks.

Labour compliance is actively monitored through inspections by the **Ministry of Labour and Social Security**, and non-compliance may result in fines, suspension of activities, or other administrative sanctions.

CONSUMER PROTECTION

Consumer protection in Cameroon is governed primarily by **Law No. 2011/012 of 6 May 2011 on Consumer Protection**, complemented by **sector-specific regulations** applicable to banking, telecommunications, e-commerce, healthcare, and digital services. Additional relevant legislation includes the **Civil Code, Law No. 2010/021 on Electronic Commerce, Law No. 2010/012 on Cybersecurity and Cybercriminality, Law No. 2010/013 on Electronic Communications**, as well as **competition, pricing, and advertising regulations** prohibiting unfair, misleading, or deceptive commercial practices.

Consumers are entitled to **clear, accurate, and prior information** on goods and services, including pricing, essential characteristics, and contractual terms, as well as protection against **unsafe, defective, or non-conforming products**. The law prohibits **unfair contractual clauses, hidden charges, and unilateral modifications** of essential contract terms, and guarantees consumers the right to **repair, replacement, refund, or compensation** in cases of defective products or deceptive commercial practices.

CONSUMER PROTECTION, CONT'D

In the context of **e-commerce and distance selling**, businesses must ensure **secure payment systems, transparent contractual terms, and clear refund and return policies**. Consumers generally benefit from a **statutory right of withdrawal**, subject to limited exceptions (including perishable goods and customized products). Where mandatory pre-contractual information is not properly provided, withdrawal periods may be extended.

Businesses operating in Cameroon are required to ensure **transparent pricing**, comply with **applicable product safety and quality standards**, and adhere to **strict advertising rules**. Misleading, deceptive, or aggressive advertising practices are prohibited, and defective or non-conforming goods must be remedied in accordance with statutory consumer protection obligations.

Enforcement is carried out primarily by the **Ministry of Trade (MINCOMMERCE)** through its consumer protection and competition services, with **sectoral oversight** exercised by regulators such as **ART** (telecommunications) and **BEAC/COBAC** (financial services). Consumer disputes may be resolved through **administrative procedures, conciliation or mediation**, including through the National Consumer Protection Commission, or by **alternative dispute resolution mechanisms**, without prejudice to judicial proceedings.

Non-compliance may result in **administrative fines, product seizure or withdrawal from the market, suspension or revocation of business licences, and civil liability**, including orders for refunds, replacement of goods, damages, or consumer compensation.

TERMS OF SERVICE

Online terms of service are enforceable in Cameroon only where the user has given **clear, informed, and express consent**, in accordance with general contract law principles under the **Civil Code** (valid consent, lawful cause, and good faith) and **Law No. 2010/021 of 21 December 2010 on Electronic Commerce**. In practice, enforceability requires an **active acceptance mechanism** (e.g. click-wrap), prior access to the terms before contract conclusion, and the ability for consumers to **read, download, print, and store** the terms on a durable medium. Passive acceptance models (browse-wrap) are unlikely to meet these requirements.

All online terms of service must comply with **Law No. 2011/012 of 6 May 2011 on Consumer Protection**, the **Civil Code, Law No. 2010/021 on Electronic Commerce**, and **Law No. 2010/012 of 21 December 2010 on Cybersecurity and Cybercriminality**, as well as applicable pricing, advertising, and sector-specific regulations. Failure to comply may render contractual clauses **partially or wholly unenforceable**.

Under Cameroonian consumer protection and general contract law, the following clauses are generally **invalid or unenforceable** when imposed on consumers:

- automatic or implied renewal clauses without prior, clear, and express consent (Consumer Protection Law, 2011);
- exclusions or limitations of statutory warranty rights beyond what is permitted by law;
- exclusions of liability for fraud, gross negligence, personal injury, death, or breach of essential contractual obligations (Civil Code and Consumer Protection Law);
- unilateral modification of price, services, or contract duration without prior notice and a right of withdrawal (Consumer Protection Law; Electronic Commerce Law);
- clauses purporting to waive mandatory consumer rights, including through abusive severability mechanisms;
- jurisdiction or choice-of-law clauses that deprive consumers of protections granted under Cameroonian law;
- vague, deceptive, unbalanced, or manifestly unfair terms, particularly in standard-form contracts.

TERMS OF SERVICE, CONT'D

To strengthen enforceability, online terms of service should expressly include **mandatory pre-contractual information** required under the **Electronic Commerce Law (2010)** and the **Consumer Protection Law (2011)**, notably: identification of the service provider (legal name, address, and contact details), total pricing (including taxes and recurring charges), description of the product or service, contract duration and termination conditions, refund and withdrawal rights, complaint-handling and dispute-resolution mechanisms, and **data protection and cybersecurity disclosures** where personal data is processed (Law No. 2010/012).

Use of unlawful or abusive clauses may result in **partial or total nullity** of the terms, **administrative fines or sanctions, civil liability** (including refunds, damages, or compensation), and **corrective measures** ordered by competent authorities, including mandatory amendment of terms or suspension of services. For online and digital businesses, careful drafting of terms of service in line with **mandatory Cameroonian consumer and electronic commerce law** is therefore essential.

TAX/FUNDING

Taxation of Businesses

Business taxation in Cameroon is governed primarily by the **General Tax Code**, as updated annually by the **Finance Laws**, most recently the **2026 Finance Law**, and administered by the **Directorate General of Taxation (Direction Générale des Impôts – DGI)** under the Ministry of Finance. The DGI is responsible for assessment, collection, audits, and enforcement, and provides regulatory guidance and e-services through its official platform (**impots.cm**).

The core tax framework applicable to investors includes, in particular:

- **Corporate Income Tax (CIT)**, levied at a standard rate of **33% on net profits**, subject to allowable deductions and sector-specific incentives, notably for reinvestment in priority sectors.
- **Minimum Tax**, applicable irrespective of profitability and calculated as a percentage of turnover (currently **2.2%**), ensuring a baseline tax contribution by operating entities.
- **Value Added Tax (VAT)** at **19.25%**, applicable to goods and services, with statutory exemptions and zero-rating for certain industrial, agricultural, and export-related activities.
- **Withholding Taxes**, applicable to dividends, interest, royalties, and certain cross-border service payments, with reduced rates available under applicable **double taxation agreements (DTAs)**.
- **Personal Income Tax (PIT)**, levied on employment income at progressive rates and withheld at source.
- **Social Security Contributions**, which are mandatory for employers and administered by the **National Social Insurance Fund (CNPS)**, covering pensions, maternity, disability, and workplace injury risks.

The **2026 Finance Law** continues the policy trend of strengthening tax compliance and broadening the tax base, with a particular emphasis on **digitalisation of tax procedures**, enhanced audit powers, and stricter penalties for non-compliance.

Tax Incentives and Investment Regimes

Tax incentives for investors are primarily structured under the **Investment Charter** and reinforced through successive Finance Laws. These incentives typically include **tax exemptions, customs relief, and accelerated depreciation**, subject to eligibility criteria relating to sector, employment creation, local value addition, and investment thresholds. Priority sectors continue to include **agriculture, manufacturing, energy, infrastructure, and technology.**

Details of applicable incentive regimes are administered in coordination with the **Cameroon Investment Promotion Agency (CIPA)** and are further addressed under Section 3 (Entering the Country – Foreign Investment Rules).

TAX/FUNDING, CONT'D

Funding and Subsidy Opportunities

Companies operating in Cameroon may access funding through a mix of public, private, and development finance channels, including:

- **Government and public funding**, notably through the **Industrial Development Fund**, state-backed SME and innovation financing schemes, and incentives facilitated by **CIPA** and related agencies.
- **Bank financing and microfinance**, with commercial banks offering short- and long-term credit and microfinance institutions providing alternative financing options for SMEs and startups.
- **Development finance**, including loans, guarantees, and grants from institutions such as the **African Development Bank (AfDB)**, the **World Bank**, and the **Central African Development Bank (BDEAC)**.
- **Private investment**, including angel investors, startup incubators, venture capital, and **foreign direct investment (FDI)**, particularly in priority sectors supported by investment incentives.
- **Public-Private Partnerships (PPPs)**, governed by the national PPP framework and facilitated by the competent authority, especially for infrastructure and large-scale projects.

Compliance, Reporting, and Enforcement Trends

Companies are subject to extensive **tax compliance and reporting obligations**, including annual tax returns, financial statements, and sector-specific declarations. **Transfer pricing rules** apply to transactions between related parties and require adherence to the arm's-length principle.

Recent Finance Laws, including the **2026 Finance Law**, reinforce the move toward **mandatory electronic filing and payment**, increased use of **data-driven audits**, and heightened penalties for late filing, under-reporting, or aggressive tax practices. Investors are therefore advised to ensure robust internal tax governance and documentation.

WHAT ELSE?

Foreign entities entering the Cameroonian market should be aware of several **cross-cutting legal and practical considerations** that may materially affect establishment and ongoing operations.

Regulatory enforcement in Cameroon is highly formalistic and documentation-driven. Administrative approvals, licences, and registrations are closely scrutinised from a procedural standpoint, and deficiencies even where substantive requirements are met may result in delays, refusals, or sanctions. Early engagement with the competent authorities and the maintenance of complete, up-to-date documentation are therefore critical.

Language and legal duality remain operationally significant. Although Cameroon is officially bilingual (English and French), most administrative practice, regulatory filings, and interactions with public authorities are conducted in **French**, including in matters governed by OHADA law. Foreign entities should ensure accurate translation and localisation of legal, contractual, and compliance documentation, particularly where operations are conducted in the Anglophone regions, as language inconsistencies may lead to procedural delays or compliance challenges.

Foreign exchange controls within the CEMAC zone continue to affect cross-border payments, intercompany financing, and dividend repatriation. While repatriation is legally permitted, transactions are subject to reporting and authorisation requirements, and delays in practice are not uncommon. Advance planning is therefore advisable.

WHAT ELSE?, CONT'D

Local content and national employment policies are increasingly enforced, particularly in regulated sectors and public-facing activities. Beyond statutory requirements, administrative practice often favours Cameroonian participation in management, employment, and procurement, and this should be factored into structuring and staffing decisions at an early stage.

Dispute resolution planning is essential. While Cameroonian courts have jurisdiction over local disputes, foreign investors frequently rely on **international arbitration**, notably under the **OHADA Uniform Act on Arbitration** or the **ICSID Convention**, to mitigate neutrality and enforcement concerns. Careful drafting of jurisdiction and arbitration clauses at the entry stage is therefore strongly recommended.

Taken together, these considerations highlight the importance of **early legal structuring, regulatory planning, and ongoing local legal support** when entering and operating in the Cameroonian market.



CANADA

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CANADA

LEGAL FOUNDATIONS

The two orders of legal governance in Canada are Federal and Provincial. The Federal laws of Canada have national application, and are enacted by the Federal Parliament, while the Provincial are enacted by legislatures in each of Canada's 10 provinces (west to east, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island) and only applicable within those jurisdictions. Canada is a common law jurisdiction at all levels, with the exception of the Province of Québec, which maintains a civil code system.

The Federal jurisdiction includes matters of criminal law, banking, immigration, inter-provincial trade and commerce, as well as transportation such as rail, air and marine transport, and delegation of powers to Canada's three Territories (Yukon, Northwest Territories, and Nunavut). The Provincial domain is focused on property and civil rights, which includes various forms of property law, contract law, natural resources, education, municipal and healthcare matters.

Canada's constitutional doctrine of paramountcy provides that where there is necessary overlap between Federal and Provincial laws, the Federal laws prevail to the extent necessary to resolve conflict between such laws.

CORPORATE STRUCTURES

Entities may be formed at either the Federal level, or at any Provincial or Territorial level. The rules and requirements for formation vary in each jurisdiction, and a company must be registered in any Province or Territory in which it does business (which will generally be any jurisdiction in which it has a boots-on-the-ground presence, or into which it has directed sales). Extraprovincial registration can be done with relative ease for any Canadian-formed entity.

Some jurisdictions (including Federal corporations) require a minimum of 25% of directors (at least 1) be Canadian residents. British Columbia has long had no such residency requirement for directors, and residency requirements have been recently removed by Alberta and Ontario as well.

CORPORATE STRUCTURES, CONT'D

Typical structures for Canadian entities are as follows:

Corporations

The most common form of entity which you will find in Canada is the limited liability corporation, identified by the synonymous extensions Ltd., Inc. or Corp. A corporation in any jurisdiction may be formed by at least one shareholder, and must have at least one director. Governance is set out in the Articles of Incorporation or the By-Laws, depending on jurisdiction, and shareholders may enter into additional agreements to regulate issues such as the election of directors, management of the business, and other matters related to share ownership. In some jurisdictions, these shareholder agreements must be unanimous in order to be in compliance with legislation.

There are no minimum capital investment amounts, and the share structures within corporations can be customized in many ways, depending on the plans and needs of the company.

Partnerships

Partnerships are quite common in Canada as well and take a few different forms:

- **General Partnerships** in which all partners share a common purpose and have unlimited liability;
- **Limited Partnerships** in which typically one partner (the general partner) holds all liability, while the remaining partners (the limited partners) have limited liability; and
- **Limited Liability Partnerships** in which all of the partners have a limited liability.

All forms of partnership are governed by applicable legislation, and are formed by entering into partnership agreements (and in certain cases, require registration).

Partnerships are most typically used in real estate investments, investment funds (such as a typical venture capital fund), and professional organizations (such as law firms or accounting firms).

Sole Proprietorship

A sole proprietorship is any single nature person engaged in business. While an individual does not need to register in order to conduct business as an individual, a sole proprietorship is generally where the individual registers a name in connection with their business. A sole proprietor remains fully and personally liable with all of their private and business assets. Unsurprisingly, the sole proprietorship is generally only favoured at a very early startup stage, or for low liability risk small business endeavours.

Other Common Structures

While the above structures are most commonly used, there are a variety of other structures available within Canadian corporate law.

British Columbia has Community Contribution Corporations, similar in some ways to the UK Community Interest Company, and the Benefit Corporation, similar in most ways to the US B Corp model, however neither form of entity is currently widely used.

Alberta, British Columbia and Nova Scotia all provide for an Unlimited Liability Company. This form of entity is specifically useful for cross-border ownership, particularly with US LLCs, as they allow for certain tax flow-through treatment.

CANADA

ENTERING THE COUNTRY

The Investment Canada Act (ICA) requires notification where there is investment by non-Canadians to (a) establish a new business in Canada, or (b) acquire control of a Canadian business (whether or not currently controlled by Canadians prior to acquisition). Notification involves filing a form with Innovation, Science, and Economic Development Canada (ISED) within 30 days following the investment.

A direct acquisition may require pre-closing review by ISED if the enterprise value of the Canadian business hits an annually indexed financial threshold (in 2026 this threshold runs from CAD$1.452 billion to CAD$2.179 billion, for WTO member states and free trade partners).

Review may also be required where the Canadian business being acquired is a "cultural business", including by way of an indirect acquisition. A cultural business is defined in the ICA, and generally includes publication, distribution, sale or exhibition of various forms of media. Additional review may also be required where there are national security concerns, such as aerospace, defence, network and data security, telecommunications and sensitive technology.

The Competition Act require pre-closing notification or review where (a) the parties to the transaction have an aggregate book value of assets in Canada or gross revenues from sales in, from or into Canada, in excess of CAD$400 million, and (b) the transaction value is greater than CAD$93 million (subject to various qualifications based on the transaction type).

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign or combination of signs and words, used or proposed to be used to distinguish the goods and services from other companies, can be registered as a trademark.

Where to apply? Trademarks can be filed with the Canadian Intellectual Property Office (CIPO) for trademark protection within Canada. If the goods or services will be marketed in other countries, a filing with the World Intellectual Property Organization (WIPO) under the Madrid System may also be required. An application for trademark registration can be filed with the CIPO Trademarks e-Filing service. Once the application is received, CIPO will conduct its own searches, ensure compliance with legislation, and publish the application in a Trademarks Journal to provide the public with an opportunity to oppose the application. The trademark will be registered if no one opposes the application or if an opposition has been decided in the applicant's favour.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for 10 years from the date of registration. It can be renewed every 10 years after that for a fee.

Costs? Application costs for Canadian trademarks submitted online through CIPO's website is $491.06 (2026) for the first class of goods or services and $149.04 (2026) for each additional class of goods or services.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions that are new (first in the world), useful (functional and operative), and inventive (showing ingenuity and not obvious to someone of average skill who works in the field of the invention) are patentable. The invention must also be a product, a composition, a machine, a process, or an improvement on any of those. A computer code by itself is not something physical and therefore is not patentable by law. A computer program may be patentable if it offers a new and inventive solution to a problem by modifying how the computer works.

Where to apply? The services of a registered patent agent should be used to register a patent in Canada. Applications require use of clear and specific terms to describe the patent and protection could be voided if it is not properly described.

Duration of protection? The term of protection is, in any case, a maximum of 20 years from the application and must be maintained by annual fees.

Costs? The application fee for Canadian patents is $595.06 (2026). The fee for entities qualifying as a "small entity" under the Patent Rules is $241.24 (2026). A "small entity" is defined as one that employs 50 or fewer employees or an entity that is a university. Various other fees may be applicable, and should be specifically considered.

Industrial Designs

What is protectable? Aesthetic features of commercial designs can be registered as an industrial design. If the design has never been published, there is no time limit for filing an application. However, if the design has been published, then a filing must be made within 12 months of publications or exclusive right to the design will be lost.

Where to apply? Industrial design rights are only valid in the country or region where they are registered. If protection is required in multiple jurisdictions, the industrial design will need to be registered in each jurisdiction's intellectual property office. In Canada, an application can be submitted through CIPO. An application can also be submitted through the Hague System, which may protect the design in multiple countries at the same time.

Duration of protection? The term of protection begins on the date of registration and ends on the later of the end of 10 years after registration and 15 years from the Canadian filing date. After the initial five years, a maintenance fee of $531.80 (2026) is required to maintain the exclusive right to the design.

Costs? The application fee for registration of an industrial design is $607.93 (2026).

Copyright

What is protectable? Original literary, artistic, dramatic, or musical works are protectable under Canada's Copyright Act. Copyright protection is granted immediately with the creation of a work. No registration is required but registration is available to provide evidence that the copyright exists and that the person registered is the owner.

Where to apply? Applications can be filed electronically, by mail or by facsimile to the CIPO Copyright Office.

Duration of protection? Copyright protection ends 70 years after the author has passed away for literary, dramatic, musical or artistic works.

Costs? The application fee for registration of a copyright is $63.00 (2026). If the application and fee are not submitted online through the Copyright Office, via the CIPO website, an additional fee of $18 is required. Various other fees may also be required during the copyright application process. A complete list of fees can be found on the CIPO website.

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Trade Secrets

What is protectable? Trade secrets include any business information that has commercial value derived from its secrecy. At a minimum, the information must have commercial value, the information must be secret, and the information must have been subject to reasonable measures by the business to maintain secrecy. In Canada, there is no federal trade secrets act or equivalent statute. Instead, trade secrets are protected under common law principles enforced in the courts.

Duration of protection? Trade secrets protection can last as long as the information actually remains a secret.

How to keep trade secrets secret? Some methods to protect trade secrets include having anyone you disclose your business information to sign a non-disclosure agreement, including confidentiality clauses in employment agreements, encrypting any valuable business information, using passwords to protect valuable business information, and storing valuable business information in a secure location.

DATA PROTECTION/PRIVACY

In Canada there are (at least) 29 federal, provincial and territorial privacy statutes (excluding statutory torts, privacy requirements under other legislation, federal anti-spam legislation, criminal code provisions etc.) that govern the protection of personal information in the private, public and health sectors. Although each statute varies in scope, substantive requirements, remedies and enforcement provisions, they all set out a comprehensive regime for the collection, use and disclosure of personal information.

Privacy and data protection in the private sector is governed by the federal Personal Information Protection and Electronic Documents Act (**"PIPEDA"**) unless substantially similar provincial private sector legislation exists. As of writing, only British Columbia (British Columbia Personal Information Protection Act), Alberta (Alberta Personal Information Protection Act), and Québec (An Act Respecting the Protection of Personal Information in the Private Sector) have such private sector privacy law (collectively including PIPEDA, the **"Canadian Privacy Statutes"**.

The Canadian Privacy Statutes set out the overriding obligation that organizations only collect, use and disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

Subject to certain limited exceptions prescribed in the Canadian Privacy Statutes, consent is required for the collection, use and disclosure of personal information. Depending on the sensitivity of the personal information, consent may be opt in or opt out. Organizations must limit the collection of personal information to that which is necessary to fulfil the identified purposes and only retain such personal information for as long as necessary to fulfil the purposes for which it was collected.

Each of the Canadian Privacy Statutes have both notice and transparency requirements. With respect to notice, organizations are generally required to identify the purposes for which personal information is collected at or before the time the information is collected. With respect to transparency, generally Canadian Privacy Statutes require organizations make information about their personal information practices readily available. This is generally done through a privacy policy.

DATA PROTECTION/PRIVACY, CONT'D

Each of the Canadian Privacy Statutes also provide individuals with the following:

- A right of access to personal information held by an organization, subject to limited exceptions
- A right to correct inaccuracies in/update their personal information records.

The Canadian federal government has seen the need for a comprehensive reform of Canadas private sector privacy legislation for a number of years. However, none of the proposals made in recent years has made it through parliamentary procedure before being nullified due to new elections.

The first attempt at an overhaul was made in 2020, in what was then called Bill C-11, which died on the order paper in 021 when Parliament was dissolved. In 2023, a new and enhanced proposal was made as Bill C-27, however this as well fell with the proroguing of Parliament in early 2025. As of the current publication, and current global political events, it's unknown when the next attempt to modernize Canada's privacy regime will occur.

As certain facets of the last two attempted reforms may be expected to be re-introduced in some form in the future, we will still highlight them here. Each bill proposed to replace Part 1 of PIPEDA with the new Consumer Privacy Protection Act, enact the Personal Information and Data Protection Tribunal Act and make consequential and related amendments to other Acts. Bill C-27, better known as the Digital Charter Implementation Act (DCIA), notably included the addition of the Artificial Intelligence and Data Act (AIDA), and proposed to put forward some key changes:

- new administrative monetary penalties imposed up to 3% of global revenue or $10 million for non-compliance, and 5% of global revenue or $25 million for the CPPA contravention;
- a new administrative tribunal to hear appeals of Commissioner's orders;
- a private right of action for consumers to sue organizations for the CPPA contravention;
- new data mobility rights allowing individuals to transfer their personal information from one organization to another and a right of erasure;
- requirement for service providers to provide the same protection to personal information transferred;
- disclosure requirement for automated decision systems;
- de-identified Information requirement; and
- confirmations of the consent-based model and new exceptions.

Meanwhile, Québec has passed amendments to its provincial laws, similar to Bill C-27, but without the AIDA components. British Columbia and Alberta are currently reviewing in light of the originally proposed Bill C-11, and there are proposals in Ontario (which does not currently have its own provincial private sector privacy law) to enact a similar consumer privacy regime. In addition, British Columbia implemented the Intimate Images Protection Act in 2024, providing civil remedies for the non-consensual distribution of intimate images.

Canada curently also has Bill-C-8 working it's way through process, which if successful will enact the **Critical Cyber Systems Protection Act**, creating a cyber security regime in Canada.

ARTIFICIAL INTELLIGENCE

As in many jurisdictions around the world, as of early 2026 the regulation of Artificial Intelligence and the systems in which it may be operated remains unsettled. As noted in previous sections, the Canadian Federal government has previously considered adopting the DCIA, and through it the AIDA, however this process has twice faltered due to Parliamentary dissolution prior to adoption.

If re-introduced, the AIDA framework currently involves the notion of "high-impact systems" where these systems are subjected to significantly more restrictive requirements, particularly relating to harm reduction and transparency. Previously proposals would see these high-impact systems classified by intended use, which enumerated list would be amended by regulation. The list has included:

- for employment and hiring decisions;
- to determine (a) whether to provide services to an individual; (b) the type or cost of services to be provided to an individual; or (c) the prioritization of the services;
- for the use of an artificial intelligence system to process biometric information in various matters
- to moderate or prioritize content in online communication platforms;
- for health care and emergency services;
- when used by courts or administrative bodies to make decisions; and
- to assist law enforcement.

Generally, AIDA has been intended to align with the European Union's **Artificial Intelligence Act** and frameworks under the Organization for Economic Co-operation and Development. This has been aimed at ensuring that Canada's legislation is interoperable and consistent with international best practices. The changes lay out the responsibilities of and accountability frameworks required to be created by personnel involved in the various stages of the AI system.

Given that it may be some time before a final form of AIDA (or some future, differently named iteration) becomes enforceable law, Innovation, Science and Economic Development Canada (a department of the Federal government) haa issued a **Voluntary Code of Conduct on the Responsible Development and Management of Advanced Generative AI Systems**. Signatories to the code commit to achieving the outcomes of accountability, safety, fairness and equity, transparency, human oversight and monitoring, validity and robustness. Signatories also commit to develop and deploy AI systems in a manner that will drive inclusive and sustainable growth in Canada, "including by prioritizing human rights, accessibility and environmental sustainability".

CANADA

EMPLOYEES/CONTRACTORS

General: With the exception of those employed within Federally regulated industries, employment is generally regulated at a provincial level, in the jurisdiction where the employee primarily provides their services. Employment laws will generally cover minimum employment standards, occupational health and safety, human rights and privacy legislation. While there is no legislated requirement that employees have written employment agreements, it is highly advisable that all employment terms be in writing in order to avoid future confusion and ambiguity.

Work Made in the Course of Employment: There is a deeming provision in the Copyright Act which provides that copyright ownership of a work created by an employee in the course of their employment belongs by default to the employer. While this is a rough equivalent to other work for hire regimes, best practice in Canada is to ensure that employment agreements contain fulsome assignment of intellectual property language. This is in part to ensure certainty around copyright ownership, and also because there is no such similar deeming provision with respect patents or other intellectual property rights.

Source Deductions: Every employer must deduct and remit income tax installments to the Canada Revenue Agency on behalf of their employees. Employers must also make deduct and remit contributions for Canada Pension Plan and Employment Insurance.

Termination: Canada is not an "at will" jurisdiction, and all employees will generally have a right notice or payment in lieu of notice in the event of termination, unless they are terminated for "just cause", which is a very high bar. It is crucial to understand that this right to notice arises from two distinct sources: employment standards legislation and the common law.

Employment standards legislation provides for a minimum notice of termination which may be provided to an employee, based generally upon their tenure with the employer. Employees cannot contract out of this minimum notice.

Common law provides for reasonable notice, which may take into account various factors determined to be relevant in the specific circumstance, commonly including tenure, age, seniority, availability of similar employment in the local market and enticement. Employees can contract out of this reasonable notice if it their written employment agreement specifically provides, however this must be done with care

Contractors: Companies may also engage independent contractors to perform services. The distinction between an employee and a contractor is a question of fact, and not solely determined by what the parties agree to call themselves. Factors taken into account in this determination will generally include control over the time, place and manner in which services are performed, ownership over tools and equipment, ability to subcontract/hire assistants, degree of financial risk the worker takes, responsibility for the project, opportunity for profit. These factors may vary from province to province, and depending on who is making the determination (i.e. the Canada Revenue Agency and a provincial employment standards branch could make different determinations).

Dependent contractors are also recognized in Canada, and fall somewhere in between employees and independent contractors. A dependent contractor will generally be more economically dependent on a single contracting company, and may also be afforded reasonable notice in the event of termination, unless a contract expressly provides otherwise.

Gig Workers: While previously workers within the so-called "gig economy" (such as on-demand delivery services, car sharing etc.) have been considered independent contractors, various jurisdictions in Canada have begun to adopt specific legislation and regulations which will regulate treatment of gig workers. Current and proposed standards may include considering such gig workers as employees, subject to minimum wages, top-ups, workers compensation, and other usual protections which employees may be entitled to but for which independent contractors are typically not entitled.

CONSUMER PROTECTION

Canada's provincial, territorial, and federal consumer protection laws are quite strict. At the provincial and territorial level, each jurisdiction has its own consumer protection legislation. While these acts differ, they address common matters, including prohibiting engaging in unfair practices and making false representations regarding goods or services, as well as voiding consumer contracts that do not comply with the legislative requirements. Some of the acts also provide consumers with certain deemed warranties (e.g., that services are of a reasonably acceptable quality).

Businesses selling directly to consumers in Québec will be subject to additional requirements. These include identifying where certain standard terms and conditions would not apply to consumers in Québec (e.g., mandatory arbitration) and providing all contractual documents in French (e.g., order confirmation emails and receipts). Contractual documents can be provided in a language other than French if the consumer expressly requests it.

While the provinces and territories set out many key consumer protection requirements, there are also a number of federal statutes. These include: the Competition Act, which has both criminal and civil provisions targeted at preventing anti-competitive practices, such as price fixing and misleading advertising; the Canada Consumer Product Safety Act, which imposes a variety of obligations on manufacturers, importers, vendors, testers, packagers, and advertisers of consumer products, most notably with respect to human health and safety; and the Consumer Packaging and Labelling Act, which addresses packaging and labelling requirements for prepackaged non-food consumer products.

As in other jurisdictions, sales contracts entered into over the Internet have specific requirements and offer unique protections. For example, in British Columbia and Ontario, in addition to other cancellation and rescission rights, a consumer may cancel a distance sales contract within: (a) 30 days after the date that the contract is entered into if they are not provided with a copy of the contract within 15 days after the contract is entered into; and (b) 7 days after they receive a copy of the contract if the contract does not contain certain prescribed information (e.g., the supplier's address, a detailed description of the goods or services to be supplied, delivery arrangements, etc.).

Many provinces within Canada have been recently updating their consumer protection laws, in an effort to modernize terms in line with other Canadian jurisdictions, and beyond. Some of these modernization updates include prohibitions on mandatory dispute resolution or class action waivers, however the treatment of such prohibited term varies by jurisdiction.

There are myriad consumer protection councils and associations in Canada. These organizations often assume a variety of roles, including educating and advocating for consumers.

TERMS OF SERVICE

Terms of services are generally enforceable in Canada whether as "click-wrap" or "browse-wrap" style terms, noting however that where a sale is involved, consumer protection laws discussed in previous sections come into play.

In order to be enforceable, a user must have notice of the terms of service. Depending on context, this can include conspicuous posting of the terms on a website or app being used, or specific linking and reference to the terms when working through a check out process.

Terms of service must also incorporate some sort of agreement or incorporation language (i.e. by continuing to use this website, you agree to be bound). Where possible, it is best practice to obtain actual agreement through an affirmative action (i.e. a checkbox or button), particularly where consumer protection, indemnification, liquidated damages, or other issues critical to a company are included in such terms of service.

TAX/FUNDING

Taxation Overview

Canadian startups are typically organized as corporations, so the primary tax consideration is corporate tax which will be applicable both federally, and within any relevant Provincial or Territorial jurisdiction.

A Canadian-resident corporation will be subject to Canadian tax on its worldwide income, subject to an applicable tax treaty which is important to identify in order to limit double taxation. A Canadian-resident corporation generally is not subject to Canadian tax on the income of its foreign subsidiaries unless an anti-deferral provision applies.

A non-resident corporation doing business in some manner within Canada will not generally be subject to Canadian income tax except with respect to (a) income earned from carrying on business in Canada, (b) income related to the disposition of taxable Canadian property, or (c) certain types of cross-border payments which may be subject to non-resident withholding taxes. Once again, tax treaties can often reduce or eliminate these taxes.

Additional tax obligations for both resident and non-resident Corporations may include the collection and remittance of variety of excise taxes such as the federal Goods and Services Tax (GST), Provincial Sales Tax (PST), Quebec Sales Tax (QST) or Harmonized Sales Tax (HSY; a combination of GST and PST as harmonized in certain provinces).

TAX/FUNDING

Funding/Incentive Programs

In Canada, there are a variety of funding and tax incentive programs which may be applicable to a startup (as well as companies at later stages). Taxation is handled at both the provincial and federal levels, so different programs may be available depending on the jurisdiction in which the startup operates.

One of the most common tax incentive programs is the federal Scientific Research and Experimental Development (SR&ED) tax incentive. Depending on the status of the company, SR&ED tax credits may be either refundable or rebatable, are calculated based on expenses of personnel conducting eligible work and can form a very significant portion of a growing company's financial planning. Further details can be found at https://www.canada.ca/en/revenue-agency/services/scientific-research-experimental-development-tax-incentive-program.html.

Another popular federal program is the Industrial Research Assistance Program (IRAP), currently provided through the National Research Council of Canada. This program is more grant based, with reimbursement of eligible expenses and subject to a variety of criteria aimed at promoting employment and innovation in Canada. Further details can be found at https://nrc.canada.ca/en/support-technology-innovation/about-nrc-industrial-research-assistance-program.

The above are only two of a variety of programs aimed at funding technology, innovation and employment within Canada. Various other regimes (such as British Columbia's Venture Capital Program, details of which can be found at https://www2.gov.bc.ca/gov/content/employment-business/investment-capital/venture-capital-programs) are further aimed at promoting private investment in support of local innovation, utilizing a refundable tax credit available for individuals or an input tax credit for businesses.

Each program will of course have its own criteria for entry, some of which are at a single point of time, and others of which are required to continue for a period. Certain programs will require that a company be a Canadian Controlled Private Corporation in order to take full advantage of the benefits of the program, so for an international startup looking to operate in Canada it is important to get full legal and tax advice prior to making such financial decisions.

WHAT ELSE?

Aggressive Anti-Spam/Malware Law: Canada has one of the world's most aggressive, punitive laws addressing unwanted communications (colloquially, "spam"), malicious software and other electronic interactions. Unfortunately, the law is not limited to "spam" or "malware", and instead regulates all commercial electronic interactions. In Canada, when engaging in any commercial purpose (even if not the only purpose), a person must first have **express, opt-in consent** before (1) electronically communicating with a person, (2) installing software (including updates) on their computing device (anything that can process instructions), or (3) altering any transmission data. Because asking someone for that permission electronically would also require such advance consent, it can be very complicated to collect consent outside of commercial interactions: as such, express consent should be separately collected during an interaction if one intends to communicate with a person or their computing device as part of commercial messages or software installs. That consent must comply with specific content and implementation rules. Additional rules apply to ensure that people can withdraw consent (unsubscribe), and that businesses handle these consents appropriately. These rules should be taken very seriously: violations of this law can include administrative fines up to C$10 million and personal director and officer liability. Businesses should seek specific advice on engaging in any of these electronic interactions.

WHAT ELSE?, CONT'D

Limited Intermediary Liability Shields: While Canada shares many cultural technologies (streaming services, social media, app stores, video games, and other Internet technologies) with the United States, it does not offer US-like, broad-based protections from liability to intermediaries like online/internet services or similar providers. Canada's Charter of Rights and Freedoms and Criminal Code, for example, draw a line between acceptable and unacceptable expressions that are far less permissive than the United States Constitution's First Amendment (for example, forbidding grossly indecent discussions and hate speech). Canada does not have an analogue to the United States' Communications Decency Act protections, and so intermediaries like online services providers can, in fact, be found to be publishers of defamatory, hateful, or other illegal content even when that content is only posted by users. While the common law may provide some defences or protections, this results in Canadian service providers being much more willing to pull down content when any controversy arises, and to closely monitor and filter user content. Last, Canada's Copyright Act does not have broad intermediary liability protections for copyright infringements, instead providing protections only for the specific acts of providing means of telecommunications, providing digital memory storage, or caching—thus, these shields potentially do not apply to many services that do more than those limited acts.

Promotional Contests and Gaming: Canada's laws prohibit or regulate offering promotional contests, betting, or anything involving the distribution of prizes by way of chance, and are in serious need of an overhaul in the Internet era. Because of this, businesses need to carefully consider and navigate these laws, a mixture of competition law, consumer protection law and criminal law (including potential jail sentences), before offering any service that offers an opportunity for people to obtain valuable results using any mechanism of random chance (i.e., games or contests with any chance element) or external contingencies (i.e., betting). For many years, it was typical for many national contests to exclude residents of Québec based on heightened requirements in that province, however recent legislative changes have aligned Québec's contest laws, opening the door for simplified national contests.

French Language Requirements: Generally speaking, companies operating in Canada are not required to serve customers in any particular language, except in the province of Québec. Companies that offer goods or services to consumers in Québec must respect their right to be informed and served in French. In addition, companies that offer goods or services to a public other than consumers (i.e. a business to business context) must inform and serve that other public in French. Consequently, companies must be able to provide customer service to individual consumers and companies in Québec to whom they provide goods and services in French. Under risk of being declared null and void, contracts of adhesion, contracts containing standard clauses, and their related documents must be presented to the adhering party in French first. Similar requirements exist for employment agreements, which must be presented in French first. Only after the adhering party has had the opportunity to examine the French version can the parties then jointly choose to be bound by a version drawn up in a language other than French. For software, where a French-language version exists, it must be made available to Québec users. Even if no French version exists, the associated documentation (including instructions, catalogues and brochures) and any advertising of the game in Québec (including a website and social media) would have to be made available in French on terms that are at least as favourable. While the Charter creates an exception for news media, there is no similar exception for software or online services. We note two things: (1) the Office québecois de la langue française's ability to enforce the Charter against foreign businesses with no Québec establishment is extremely limited—however, consumers have a private right of action that would allow them to institute an action before the civil courts (usually by way of a class action); and (2) Canadian courts have acknowledged that applying Québec law, simply by virtue of a service being available online including to Québec people, is functionally unworkable, requiring instead a "real and substantive connection" that requires complex analysis. Before offering English services into Québec, a business is well-advised to seek specific advice on this topic.



CHILE

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CHILE
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CHILE

LEGAL FOUNDATIONS

Chile follows the civil law system. It can be structured in three main branches of law:

Public law: its purpose is the creation, organization, operation, and suppression of public services, as well as the regulation of the legal activity of the State Administration and the determination of the powers and duties of the State towards its inhabitants. In Chile, this area of law is regulated mainly by the Constitution, special laws and their regulations.

Private Law: This includes the set of legal principles and norms that regulate, among other matters, the general requirements of legal acts and obligations, private property, and the regime of property in terms of its ownership, use, possession, and usufruct. Within private law, we can also include commercial law, which is that area of law whose purpose is to regulate the relationships that arise from the performance of commercial acts, as well as to prescribe and apply to those who perform them (the merchants) the rules governing their capacity, rights, and obligations. Among the most important norms that regulate this branch are the Civil Code and the Commercial Code, which are constantly modified or complemented through the reform of said codes or special laws.

Procedure Law: It regulates the organization, attributions, and operation of the courts of justice, and the most or least solemn form in which they propose to discuss and resolve the issues, which according to the law are subject to their knowledge. Procedural law in Chile can be subclassified into: (i) civil procedural law, which is mainly regulated by the Code of Civil Procedure, and (ii) criminal procedural law, regulated by the Code of Criminal Procedure and procedural law regulated by special laws such as labor procedural law.

As Chile follows the civil law system, the rulings of the courts of justice, including the superior courts (Court of Appeals and Supreme Court) do not constitute precedent and are not binding for third parties outside the trial. However, the jurisprudence of the Courts of Appeals and Supreme Court may be considered to resolve a similar conflict.

CHILE

CORPORATE STRUCTURES

Simplified Stock Corporation ("Sociedad por Acciones")

This legal entity may be formed by one or more shareholders. Its capital is divided into shares and the liability of the shareholders is limited to the amount of their contribution. In Chile, the Simplified Stock Corporation ("SpA") is the most common corporate structure and is widely used for start-up businesses due to its simplicity and flexibility.

Advantages

- Structure flexibility, including its administration, number of shareholders, segmentation of activities, etc.
- Ease to approve capital increases or decreases, incorporate shareholders, change corporate purpose, etc.
- The SpA can be established by one shareholder, with no minimum capital requirement.
- Access to financing due to their ability to issue shares.
- Especially convenient for venture capital businesses, allowing customized economic and political rights in shareholders' agreements.

Disadvantages

- A certain risk of controversy among the shareholders regarding the management of the company, as there are no mandatory formalities for its administration (unlike in a Corporation).

Limited Liability Company ("Sociedad de Responsabilidad Limitada")

Besides the SpA, one of the most common forms of partnership is the Limited Liability Company ("SRL") which has to be formed by two or more individuals or legal entities. The liability of the members of an SLR is limited to the amount of their contributions or the higher amount established in the bylaws. Equity rights can only be transferred with the unanimous approval of the partners.

Advantages

- The partners of a SRL have limited liability to the contributed capital, protecting their personal assets.
- Management flexibility, as the SRL can be managed by individuals or companies.
- Enhanced protection for partners, given the unanimity required to approve corporate amendments and equity transfers.
- There is no obligation of a minimum capital.

Disadvantages

- The SRL has a limit on the number of partners (50).
- Possible restriction of financing capacity, as SRL´s are not able to issue shares.
- Any change to the articles of association must be agreed unanimously by the partners, which can lead to immobility if no agreement is reached.

CORPORATE STRUCTURES, CONT'D

Corporation ("Sociedad Anónima")

The Corporation ("S.A.") is a legal entity formed by a common fund provided by shareholders who are liable only up to the amount of their respective contributions and which is managed by a board of directors composed by members who are essentially removable. This type of corporate structure is particularly useful for companies that have reached a higher level of maturity and complexity.

Advantages

- The shareholders liability is limited to the amount of their investment in shares.
- S.A.'s have greater access to financing due to their ability to issue shares, higher management standards and public disclosure requirements.
- Special protection for minority shareholders
- There is no obligation of a minimum capital.

Disadvantages

- It requires two or more shareholders for its incorporation.
- Lack of flexibility in terms of management since they must be managed by a board of directors and hold at least one annual shareholders' meeting.

Incorporation Procedures

In general terms, the procedure for the incorporation of the above-mentioned corporate structures can be executed through two alternatives:

a) The notarial or regular procedure of incorporation, which includes the following:

- The incorporating shareholders or partners must grant a public deed containing all the essential provisions of the articles of incorporation.
- An excerpt of the public deed must be registered in the Registry of Commerce and published in the Official Gazette within 60 days.
- A Tax Identification Number must be obtained from the Internal Revenue Service ("Servicio de Impuestos Internos" or "SII").

b) The One-Day Business Registration ("Sistema de Empresa en un Día"). This government platform established in 2013 was designed to facilitate the creation of companies in a quick and simple manner, coordinating different government entities. Although it is a very fast-track system to establish a company, since it is not assisted by an attorney nor registered by a Notary Public, legal issues are not uncommon when companies start operating using this platform, especially with the powers structures and bylaws approval by banks and other financial institutions.

ENTERING THE COUNTRY

Law No. 20,848 of 2016 is the main regulatory body governing foreign direct investment in Chile (the "Foreign Investment Law") which provides several benefits for investments in the country that complies with the requirements set forth in it. In addition to this benefit, Chile has signed a series of international agreements, treaties and conventions that grant additional benefits to foreign investors, such as Double Taxation Treaties, Free Trade Agreements, among others.

In general terms, prior authorization is not required for foreign direct investment in Chile, except in the specific case of certain strategic sectors.

ENTERING THE COUNTRY, CONT'D

Investments contemplated in Chapter XIV of the Summary of Foreign Exchange Regulations of the Central Bank of Chile do not require further authorization and are only reported to the Central Bank. Thus, transfers of foreign capital entering the country in the context of credit operations, deposits, investments or capital contributions, the amount of which exceeds USD 10,000 or its equivalent in other currencies, must be made through the formal exchange market and reported by such entities to the Central Bank of Chile.

Moreover, there are certain formal obligations that foreign investors must comply with in order to invest in Chile, which relate to obtaining a tax identification number and appointing a local representative before SII.

INTELLECTUAL PROPERTY

Chile's intellectual property framework is primarily grounded in Law No. 17,336 on Intellectual Property, which protects copyright and related rights across literary, artistic, scientific, and software works. In recent years, this framework has been modernized through significant reforms, most notably the 2022 "Short Law" (Law No. 21,355), which updated the industrial property system by introducing new categories of trademarks—such as olfactory, three dimensional, animated, and position marks—establishing a mandatory use requirement for maintaining trademark validity, creating provisional patents, and enabling the revocation of trademarks that remain unused for five years after registration or renewal. These changes have aligned Chile's system more closely with international standards and expanded the tools available to rights holders.

At the same time, Chile is advancing additional legislative initiatives aimed at strengthening the enforcement of both copyright and industrial property rights. Current proposals include anti piracy measures that define and penalize the circumvention of technological protection measures (TPMs), the incorporation of industrial property crimes as predicate offenses for money laundering to curb organized counterfeiting networks, and reforms that enhance the Public Prosecutor's ability to pursue trademark counterfeiting more swiftly while improving coordination with border enforcement mechanisms.

Chile's IP landscape has also been reinforced by its 2022 accession to the Madrid Protocol, which has been implemented successfully as both a receiving office and an office of origin, demonstrating the country's commitment to modern, efficient, and internationally harmonious IP protection.

The following IP rights can be registered:

Trademarks

What is protectable?

Any sign which is able to distinguish goods or services on the market can be registered as a trademark. Thus, our system admits protection for both traditional and non-traditional trademarks.

Where to apply?

The procedure is carried out directly at the local trademark office, the National Institute of Industrial Property (INAPI).The process of registering a trademark in Chile consists of three fundamental stages. First, the application is submitted, which can be filed via the online platform on https://tramites.inapi.cl/Trademark/TrademarkApplication/IndexTrademark. The application can also be submitted in person at our TMO. Next, a formal examination is conducted to verify compliance with legal and regulatory requirements. Once this examination is approved, the application is published in the Official Gazette, allowing third parties to oppose if they believe there is a ground for refusal. The opposition term is of 30 business days and no extension of this term is allowed. Once the opposition term is closed, the substantive examination is performed. Finally, after passing the substantive examination, the National Director of our Trademark Office (INAPI) issues the administrative resolution that accepts or denies the trademark registration. In case of rejection, there is the possibility to appeal to the Industrial Property Court

INTELLECTUAL PROPERTY, CONT'D

Trademarks, CONT'D

Costs?

Registering new trademarks in Chile involves fees of 3 Monthly Tax Units[1] (UTM) per requested class. These fees are split into two stages: an initial payment together with the filing of the application and a final payment once the application is accepted to registration. The initial payment is of 1 UTM[2], and the final payment amounts to 2 UTM[3]. If the trademark is rejected, the initial payment is non-refundable.

Patent

What is protectable?

A patent of invention is granted when an invention is novel, involves an inventive step and is capable of industrial application. The novelty requires that the solution provided by the invention must be new to the world's body of technical knowledge. The inventive step requires that the invention is not obvious to a person of ordinary skill in the relevant area. Industrial applicability is satisfied when the invention can be manufactured or incorporated into practice in the respective industry.

Where to apply?

First, the application is submitted, which can be filed via the online platform on https://tramites.inapi.cl/Patent/PatentApplication/IndexUtilityModelOrPatent.

The application can also be submitted in person at our TMO. Then follows with a preliminary exam, publication of the application at the Official Gazette, the payment of the expert fee, appointment of the expert, issuance of the expert report, report of the examiner and then the final resolution in the first instance.

The application must include the complete particulars of the applicant, the complete particulars of the inventor and its representative (if any), the title of the invention, the priority right details if it is claimed, an affidavit of novelty, property and utility of the invention, and the signature of the applicant and its representative (if any).

The application must be submitted together with the claims, a complete description of the invention with a drawing and proof of payment of the government application fee. If the application has more than 80 pages, an extra fee must be paid.

Duration of protection?

The protection granted by a patent is territorial and temporary. The protection is valid for a period of twenty (20) years for a patent of invention.

Costs?

The filing fee is 1 UTM[4]. There is also a charge for each additional page exceeding 80 pages, corresponding to 1 UTM[5] for each 20 pages or fraction thereof. In addition, there is a relatively low fee for the publication of the patent and a fee for the expert opinion, the latter corresponding to CLP 796.344[6] at the date of issue of this report. After acceptance for registration, an amount of 3 UTM[7] must be paid, which operates for the first period of validity -corresponding to 10 years-. Once the first decade has elapsed, an amount of 4 UTM[8] must be paid to ensure the second period of validity of another 10 years.

[1] Approximate fee amount: USD 205.
[2] Approximate fee amount: USD 68.
[3] Approximate fee amount: USD 136.
[4] Approximate fee amount: USD 68.
[5] Approximate fee amount: USD 68.
[6] Approximate fee amount: USD 809.
[7] Approximate fee amount: USD 205.
[8] Approximate fee amount: USD 273.

INTELLECTUAL PROPERTY, CONT'D

Utility Model

What is protectable?

A utility model protects inventions, but with less creative value or less radical innovation than a patent. Under utility models, commonly, are protected apply to inventions with less technical complexity, for which reason they are also known as "petty patents", as the requirement of inventive level does not apply to them. Utility Models can only be products, processes cannot be protected under this category.

Where to apply?

See comments on patent applications above.

Duration of protection?

In contrast to patents, the term of protection is only 10years. The protection is not renewable.

Costs?

The filing fee is 1 UTM[8]. The additional charge for each additional page over 80 pages also applies to this matter, however, it is unlikely that an utility model application exceeds such extension. In addition, there is a relatively low fee for the publication of the patent and a fee for the expert opinion, the latter corresponding to CLP 597.000[9] at the date of issue of this report. After acceptance for registration, an amount of 1 UTM[10] must be paid, which operates for the first period of validity -corresponding to 5 years-. Once the first decade has elapsed, an amount of 2 UTM[11] must be paid to ensure the second period of validity, of another 5 years.

Designs

What is protectable?

This category includes industrial designs and industrial drawings. The difference between an industrial design and an industrial drawing is that the latter is two-dimensional, while designs are three-dimensional.

An industrial design (ID) refers to any three-dimensional form, colored or not, and any industrial or craft product that serves as a pattern for the manufacture of others like it and is distinguished from similar products either by its form, geometrical shape or decoration, or a combination of these, insofar as those characteristics give it a special appearance perceptible to the eye in such a way that a new character result.

An industrial drawing (IDr) refers to all arrangements, collections or combinations of figures, lines or colors developed on a plan or diagram for incorporation in an industrial product for the purpose of decoration and to give said product a new appearance. IDr is two dimensional.

ID and IDr are required to be novel, without prejudice the others common requirements applicable to all industrial property rights. ID and IDr are considered novel if no identical or similar design has been made public before the filing date of the design's application.

Where to apply?

Regarding the ID and IDr, the registration system consists of depositing the design in the INAPI. It can also be filed via the online platform on https://tramites.inapi.cl/Patent/PatentApplication/IndexDesignOrIndustrialDrawing. It is the mere deposit of an application, which is submitted only to a formal examination (there is no substantive examination).

[8] Approximate fee amount: USD 273.
[9] Approximate amount: USD 68.
[10] Approximate amount: USD 606.
[11] Approximate amount: USD 68.
[12] Approximate amount: USD 136.

INTELLECTUAL PROPERTY, CONT'D

Designs, CONT'D

Duration of protection?

The term of protection is 15 years. The protection is not renewable.

Costs?

The filing fee is 1 UTM[13]. The additional charge for each additional page over 80 pages also applies to this matter, however, it is unlikely that an industrial design or industrial drawing application exceeds such extension. In addition, there is a relatively low fee for the publication of the patent and a fee for the expert opinion, the latter corresponding to CLP 444.000[14] at the date of issue of this report. After acceptance for registration, an amount of 1 UTM[15] must be paid, which operates for the first period of validity -corresponding to 5 years-. Once the first decade has elapsed, an amount of 4 UTM[16] must be paid to ensure the second period of validity, of another 10 years.

Copyright

What is protectable?

Copyright protects in Chile all intellectual works that are creations of literary, artistic, and scientific works, whatever their form of expression is. Only concrete expressions are protectable and not ideas. Copyright protection includes artistic, literary, and scientific expressions, text, music, works of art, such as paintings and sculptures, videogames, magazines, films, as well as technological works, for example, computer programs and electronic databases.

There are two types of rights granted by our copyright system: a) "patrimonial rights", which provide to the holder the right to obtain financial return from the use and exploitation of the work and b) "moral rights", which emphasize the existing personal link between the author and the work.

According to our local law, "patrimonial rights" can be transferred to third parties. "Moral rights" cannot be transferred to third parties.

Where to apply?

Registration is not mandatory. If the work is original, it will be afforded copyright protection regardless the registration. The Chilean Copyright Law protects the rights of the author by the mere fact of the creation of the work.

National and foreign authors can register their work. The institution in charge of the registry is the Department of Intellectual Property Rights.

Although it is not required to register copyright material, copyright registration is recommendable as a way to evidence authorship.

Duration of protection?

The protection granted by the Chilean Copyright Law lasts for the life of the author and is extended up to 70 years from the date of his death.

[13] Approximate amount: USD 68.
[14] Approximate amount: USD 451.
[15] Approximate amount: USD 68.
[16] Approximate amount: USD 273.

INTELLECTUAL PROPERTY, CONT'D

Plant Variety Protection

What is protectable?

Any creator of a new plant variety, whether in Chile or abroad, wishing to protect it in Chile can enter it into the Register of Protected Varieties. Current legislation recognizes the right that the creator has over the variety created, granting the exclusivity to propagate and commercialize the seed or plant of the protected variety throughout the duration of the protection.

According to PVP Law, plant variety consists in a set of plants of a single botanical taxon, that is, the distinctive element, of the lowest known rank that, regardless of whether it fully meets the conditions of the granting of a breeder's right, can:

- Be defined by the expression of the characteristics resulting from a certain genotype or from a certain combination of genotypes.
- Be distinguished from any other group of plants by the expression of at least one of said characters.
- Be considered as a unit, considering its ability to spread without alteration.

To be subject of protection, the plant variety must be new, distinct, homogeneous, and stable:

- **New:** a plant variety that has not been commercialized in Chile; those that has been commercialized without the consent of the breeder; those that has been commercialized in Chile with the consent of the breeder for not more than a year prior to the date of the application for protection; and those that has been commercialized in other jurisdiction with the consent of the breeder for the following period of time prior to the date of the filing application: not more than 6 year for protection for forest trees, fruit trees and ornamental trees, and for not more than four years for other species.
- **Distinct:** a plant variety that can be distinguished by one or more important characteristics from any other variety with a well-known character at the time of requesting the protection.
- **Homogeneous:** a plant variety that is uniform enough in its relevant characteristics.
- **Stable:** a plant variety which essential characteristics remain unaltered after successive reproductions or multiplication, or after the final of the cycle defined by the breeder for reproductions or multiplication purposes.

Where to apply?

To protect a new plant variety, an application must be submitted before the Department of Seeds of the SAG, depending on the Agriculture Ministry. This application should include background information and documents proving that the variety meets protection requirements. Additionally, a representative sample of the plant variety must be provided, and the applicant commits to maintaining control specimens during the registration's validity period.

Each plant variety requires a unique denomination that serves as its generic name. This name must differ from existing varieties of the same or similar botanical species. It cannot consist solely of numbers and should accurately represent the variety's characteristics.

Accepted applications are published in the Official Gazette, initiating a 60 business days term for potential oppositions. If opposition arises, the applicant has additional time to respond, especially if parties are in different jurisdictions. This process safeguards breeder rights and encourages plant variety development in Chile.

If no opposition is filed or if it is resolved in favor of the applicant, the Qualifying Committee will issue orders for inspections, tests, and trials related to the plant variety.

Upon determining that the variety meets legal requirements, the Qualifying Committee instructs the Department to register the variety in the Registry of Protected Varieties and grants the corresponding title. This is done upon payment of the required fee.

INTELLECTUAL PROPERTY, CONT'D

Plant Variety Protection, CONT'D

Duration of protection?

The protection of the plant variety shall be effective for a period of fifteen (15) years counted from the date of grant of the breeder's protection, except for vines and trees, for which the term shall be eighteen (18) years.

The breeder's right will remain in force as long as the breeder pays the fees and costs for the registration and validity of the right, in the opportunity indicated by regulations.

Costs?

The cost of protecting a plant variety in Chile is divided into two parts: registration and annual maintenance.

The registration fee is paid only once, at the time of application and it has a cost of 6.9 UTM[17] per variety. Subsequently, Distinctness, Homogeneity, and Stability (DHS) Tests are conducted on plant samples to verify compliance with physical requirements. These tests span the first 2 years, with additional costs for subsequent years. The specific values vary based on where the tests occur (either at the Agricultural and Livestock Service or the applicant's facilities) and the plant species (fruit, forestry, or others)[18].

The annual maintenance fee is payable from the date of definitive registration of the variety and is charged every year, corresponding to 3.1 UTM[19] per variety to keep the registration active.

[17] Approximate amount: USD 472.

[18]

Type of DHE (distinction, homogeneity and stability) test according to location		RATE (UTM - approximate value in USD / variety)
Execution of DHE test at SAG facilities	Base test (2 years)	11 UTM - Approximate amount: USD 753
	additional year	5,5 UTM - Approximate amount: USD 376
Execution of DHE test in the interested party's facilities for fruit and forestry species.	Base test (2 years)	23, 5 UTM - Approximate amount: USD 1.608
	additional year	11,75 UTM - Approximate amount: USD 804
Execution of DHE test in the interested party's facilities for fruit and forestry species.	Base test (2 years)	19,5 UTM - Approximate amount: USD 1.334
	additional year	9,75 UTM - Approximate amount: USD 667

[19] Approximate amount: USD 199.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

What is protected?

Trade secrets include all knowledge of products or industrial procedures that, by being kept secret, gives to their possessor a competitive advantage, enhancement, or breakthrough.

The knowledge that may be subject of protection is usually defined in broad terms including supplier lists, client lists, distributor lists, marketing strategies, consumers' profiles, manufacturing processes, among others.

Chilean law does not establish any specific requirements for the protection of trade secrets. Therefore, article 39.2 of the TRIPS Agreement should be attended: (a) the information must be secret; (b) the information must be valuable; and (c) the holder must take reasonable precautions to keep the information secret.

The illegitimate acquisition of a trade secret, its disclosure or exploitation without authorization from the holder and its disclosure or exploitation of trade secrets to which there has been legitimate access but under a confidentiality obligation, shall constitute a violation of the trade secret, provided its violation was intended to obtain advantage for one's own benefit or that of a third party or to injure its holder.

The violation of trade secrets is considered an unfair competition behavior. Moreover, in case of violation of a trade secret, IP law grants civil actions as well as criminal sanctions, the latter becoming more severe since the entry into force of Law 21.595 on Economic Crimes.

Duration of protection?

As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

In Chile data privacy is regulated by Privacy Protection Law N° 19.628 (2024) On December 13, 2024, the new personal data protection law was published, which raises the standard of personal data protection in Chile, aligning it with the General Data Protection Regulation of the European Union. Despite being published, it will come into effect on December 1, 2026, allowing for a two-year legal vacancy period.

The law currently in force among other matters regulates the following:

- Legal basis for processing of personal data: Both the law and data subjects' explicit consent are the main legal basis for data processing. This regulation also sates several exceptions regarding consent, such as, the processing of personal data collected from sources accessible to the public.
- Data subjects' rights: information, cancellation, opposition or blocking and rectification rights. The data controller has a term of two working days to respond to these types of requests by the personal data titleholder.
- Authority: currently there is no specific authority specialized in data privacy. Claims must be filed before civil courts.
- Penalties: current fines are limited to 50 UTM[20] and data subjects may file claims demanding compensation for pecuniary and moral damages caused by the improper data processing, notwithstanding the request delete, modify, or block the data as ordered by the corresponding civil court.

[20] Approximate fine amount: USD 3,500

DATA PROTECTION/PRIVACY, CONT'D

The new law that will come into effect in 2026 mainly includes the following:

- New legal basis for processing personal data: contract and legitimate interest.
- New data subjects' rights: right to portability and opposition to automated individual decisions.
- Authority: The new law creates a specialized authority and control body in matters of personal data protection called the Personal Data Protection Agency.
- Penalties: current fines are limited to 20.000 UTM[21]. In case of recurrence, the Agency may impose a fine of up to three times the amount assigned to the committed infraction. However, if the offender qualifies as a medium or large sized enterprise and additionally engages in repeated non compliance, the maximum sanction may be increased to an amount ranging between 2% and 4% of the entity's gross income for the preceding fiscal year.

On the other hand, in 2018, data privacy was incorporated as a fundamental right in the Chilean Constitution. Therefore, constitutional actions are currently available for Data Privacy-related arbitrary acts or illegal privacy rights affectation.

On December 24, 2021, the so-called Pro-Consumer Law (Law 21.398) was published, which amends Law 19. 496 on Consumer Protection, incorporating among its provisions Article 15 bis, which gives supervisory powers to the National Consumer Service (SERNAC) regarding the personal data of consumers in a consumer relationship, according to the following text: "Articles 2 bis, 58 and 58 bis of the consumer protection law shall be applicable to the personal data of consumers, within the framework of consumer relationships, unless the powers contained in those articles are within the scope of legal powers of another body".
Article 2 bis of the consumer protection law contemplates class actions and diffuse interests. Articles 58 and 58 bis of the same law provide for the supervisory powers of SERNAC. Therefore, in the case of personal data in the context of a consumer relationship, SERNAC may supervise compliance with Law 19.628 and may exercise collective actions for diffuse interests.

Since the enactment of the Fintech Law (Law No. 21,521), the Financial Markets Commission (CMF) has issued infra-legal norms particularly General Rule No. 514, to regulate the Open Finance System (OFS). These rules subject OFS data users, where applicable, to the provisions of Law No. 19,628 on the protection of personal data. In 2025, the CMF as the main authority of the OFS, postponed the implementation of the OFS to the 2026–2027 period.

[21] Approximate fine amount: USD 1,400,000

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Chile, yet.

However, the Ministry of Science in December 2021 published a National Artificial Intelligence Policy, which contains the strategic guidelines to be followed by our country in the next ten years with the aim of empowering people in the use and development of artificial intelligence (AI) tools and to participate in the debate on their legal, ethical, social and economic consequences. Since Chat GPT launch, the government has been working to adjust this policy regarding risk related to generative AI and particularly with a focus in consumers In 2024, the Government, through Decree No. 12, updated the National AI Policy in order to incorporate a strengthened focus on AI governance and to ensure alignment with the new privacy regulatory framework.

Moreover, there is a bill (Bill 15869-19/16821-19) currently being discussed in the Chilean Congress that regulates artificial intelligence systems, robotics, and related technologies, in their different fields of application. The Bill of Law aims to establish a legal framework regarding the development, commercialization, distribution, and use of artificial intelligence systems, ensuring the protection of fundamental rights guaranteed by the State, following the EU A.I Act (2024/1689) Risk-Based model approach.

EMPLOYEES/CONTRACTORS

Regulation of the employment relationship

The main requirement for foreign entities to be able to hire personnel in Chile is that they must be domiciled in Chile in order to allow the government entity that oversee the correct application of labor regulations to supervise them. The government entity who is responsible for this supervision and also interpreting and applying labour law is the Labour Directorate (Dirección del Trabajo), which has regional bodies all over the country, called Labour Inspectorates (Inspecciones del Trabajo).

Regarding the hire of employees, all companies need to know that the employment contract must be in writing. Under Article 10 of the Labour Code, there are several essential elements which must be included in every contract. These include the name and nationality of all parties, and the employee´s address and e-mail, date of birth, duties, place of work, work hours, remuneration and starting date. The employer must put the contract in writing within 15 days of the worker's hiring date or within five days if the job involves a specific project or service or if the contract will last for less than 30 days. Failure to do so may result in a fine payable to the Public Treasury.

All workers have the right to receive remuneration that may be fixed, variable or mixed. In the case of fixed remuneration, the base salary cannot be less than the Minimum Monthly Income determined by Law on an annual basis. Additionally, provided a company has profits, Chilean Law establishes a mandatory annual profit-sharing bonus (Gratificación Legal). The general rule is that the employer must distribute 30% of its profits to its employees, prorated to the remunerations of the employees during the respective year. However, there is an alternative way of complying with this obligation, by means of paying the workers 25% of their remuneration, with a cap of 4.75 minimum monthly income. Most companies opt for the alternative system.

EMPLOYEES/CONTRACTORS, CONT'D

Regulation of the employment relationship, CONT'D

The components of the Social Security System in Chile are:

- Pension System: for the purposes of financing old age, disability and survival pension, a percentage of each employee's remuneration must be withheld, declared and paid by the employer to the employee´s Pension Fund Administrator (AFP). After the recent reform of the Pension System, the employer also needs to contribute to the capitalization account of the employee. This contribution will increase gradually over a nine year period up until 7% of the employee's remuneration.
- Health insurance: employees must contribute 7% of their monthly remuneration, in the same way that the pension is withheld form the employee's remuneration.
- Unemployment insurance: This insurance is a system based on creating individual savings accounts to cover the risk of unemployment. It has three-way financing: by the employees, employers and the State.

Work for Hire Regime

Law 19,039 stipulates that the right to apply for the registration of, and property rights pertaining to, the inventive or creative product of works performed under labour and service contracts, belongs exclusively to the employer or the person who ordered the service, except when expressly stated otherwise.

This also applies to software, which in Chile is protected under the Copyright Statute Law 17,336.

An employee who, according to his or her labour contract is not obliged to perform an inventive or creative function, is entitled to apply for this type of registration, and all industrial property rights arising from any inventions belong exclusively to the employee. However, if in order to accomplish the invention, the employee evidently benefited from knowledge acquired at the company, using means provided by the company, the aforementioned rights will belong to the employer and the employer must give the employee additional retribution to be mutually agreed upon. The above also applies to a person who makes an invention by exceeding the task required of him.

Chapter II of Law 17,336 deals particularly with software intellectual property rights created in the context of a labour relationship. Specifically, this law stipulates that the intellectual property rights of software created by employees while performing their labour tasks belong to the employer, except when expressly stated otherwise.

Termination of employment

Dismissal is treated on a case-by-case basis, even in cases where many employees are dismissed at the same time. Chilean Law has no special rules in the case of mass dismissal.

An employer may validly dismiss an employee because of "company needs" (redundancy dismissal). Article 161 of the Labour Code authorises the employer to terminate the work contract on "company, establishment or service needs" grounds, such as those resulting from streamlining or modernisation, drops in productivity, or changes in market or economic conditions which make it necessary to dismiss one or more employees.
Executives with management authority – with at least general powers of administration – may be dismissed by means of a notice (Desahucio), without justification. Also, this applies to employees of exclusive trust that arise from the nature of the hired services.

In this case, the employee is entitled to a severance for years of service which amounts to one month's worth of remuneration per year of service with a cap of 90 UF (US$ 3,660 approx.) per year and a cap of 11 years.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of employment, CONT'D

Should an employee challenge such decision in court, and a labour court find that a dismissal for "company needs" was not justified, the company will be required to pay an additional 30% over the years of service compensation.

Furthermore, the contract can end by mutual agreement, resignation, death of the employee, expiry of the period agreed in the contract, completion of the work or service which gave rise to the contract, or due to force majeure. It can also end on several grounds that relate ultimately to faults by the employee. In all of the above cases the employee will have no right to compensation.

However, if an employee challenge one of these grounds of dismissal "by fault of the employee" before the Labour Courts and is successful, severance for years of service must be paid with an 80% surcharge to the employee. If the dismissal was based on grounds that do not entail "fault of the employee" (e.g. expiry of the period agreed in the contract or completion of the work or services which gave rise to the contract or force majeure) and is declared unjustified, the employer will have to pay the severance of years of service with a 50% surcharge for any of the other reasons mentioned above.

The law provides that the employer, in the case of dismissal because of "company needs" or Desahucio, must give the employee a 30-day advance termination notice. If the employer does not wish to give such notice, it must make a payment, in lieu of notice, equal to the last monthly salary, with a 90 UF cap (US$ 3,660 approx.).

Chilean Law contains the following established administrative procedure for putting an end to an employment contract:

- The employer must give the dismissal notice and reasons in writing, delivered either personally or by means of a letter sent by registered mail. This notice must be sent within three days of the employee´s dismissal date. At the date of dismissal, all social security payments must have been made (with certain minor exceptions). If the company owes any social security payments in relation to the employee, the dismissal can be validated by paying the amounts due plus the wages and the social security obligations accrued up to the date that the debt is paid.
- In order for the dismissal to be valid, the company must attach to the letter either a certificate from the relevant social security institutions stating that the employer is up to date on social security payments in relation to the employee, or a copy of all the relevant social security payment receipts.
- In addition, the company must advise the corresponding labour authority in writing about the employee's dismissal.
- Finally, the employer must provide the employee with a release document (Finiquito) stating the reason for terminating the employment contract, the amounts paid upon severance and a statement indicating that the employer has no further monetary obligations towards the employee with respect to the employment relationship.

For the release document to be valid for the employer, the employee must ratify it with his or her signature before an authorized witness (a notary public, a Labour Inspectorate Inspector, the labour union president, etc.). This is usually done before a notary public.

Dismissal does not require prior approval from any government agency.

CONSUMER PROTECTION

In Chile, Consumer Law (Law 19,496), primarily regulates the relationship between "Suppliers" (vendors/providers) and "Consumers" (end-users). However, small and medium-sized enterprises (SMEs) can also be considered "consumers" in certain B2B relationships if they are the end-users of the product or service. The law considers sanctions and creates a consumer body called SERNAC (National consumer service) its mission is to educate, inform, supervise, dictate rules (only applicable to its officials), protect Chilean consumers, and encourage citizen participation through Law 19.496. This authority is also responsible for mediating in consumer disputes between companies and consumers.

The following is a summary of the main provisions of this law:

- Establishes consumer´s rights and duties. The principal being:
  - Right to Safety: Products and services must not pose a risk to health or safety.
  - Right to Truthful and Timely Information: Information regarding price, conditions, and characteristics must be clear and accurate.
  - Right to Non-Discrimination: Arbitrary discrimination is prohibited.
  - Right to Warranty (Legal Guarantee)
  - Right of Retraction (Cooling-off Period).
- Existence of consumer associations that watch over the interests of consumers.
- Obligations of suppliers.
- Abusive clauses in adhesion contracts.
- Regulates the procedure for complaints and actions that may be filed before the corresponding local police court.
- SERNAC and consumer associations may file class actions when there are more than 50 consumers affected by law infringement.
- Failure to comply with the law results in fines ranging from 50 to 2,250 Monthly Tax Units[22].

In case of doubt regarding the interpretation of the law or a contract, Chilean courts and authorities will always interpret in favor of the consumer (in dubio pro consumatore).

[22] Approximate fine amount: USD 157,500

TERMS OF SERVICE

Yes. To be enforceable and compliant, your online ToS must clearly state:

- Company Identification: Full legal name, RUT (Tax ID), physical address, email, and customer service contact details.
- Total Price Breakdown: The price must be final and include all taxes, fees, and shipping costs.
- Stock Availability: A statement regarding stock. If a product is sold out, it cannot be available for purchase.
- Right of Retraction (Cooling-off Period): You must explicitly state that the consumer has 10 days to retract from the purchase without cause.
- Legal Guarantee (Warranty): You must inform consumers of their 3x6 right (6 months to choose between repair, replacement, or refund in case of defect). You cannot offer less than this.
- Delivery Terms: Clear information on shipping methods, costs, and specific delivery timeframes. Vague terms like "delivery in a few weeks" are risky; specific dates or ranges are required.
- Contact for Complaints: A clear mechanism or channel for consumers to file complaints and questions.

You cannot include clauses that:

- Waive Consumer Rights: Any clause stating that the consumer gives up their right to the legal warranty, retraction, or compensation is void.
- Limit Liability: Clauses that exonerate the company from liability for deficiencies, safety issues, or breach of contract.
- Unilateral Changes: Clauses allowing the company to change the price, product, or terms of the contract after the purchase without the consumer's consent.
- Shift the Burden of Proof: Clauses that force the consumer to prove something that should be the company's responsibility (e.g., proving a defect existed at delivery).
- Mandatory Arbitration (for Consumers): You cannot force a consumer to go to arbitration and waive their right to go to the Local Police Court or ordinary courts. Arbitration clauses in B2C contracts are generally not binding on the consumer unless they agree to it after the conflict arises.
- Privacy Waivers: Broad clauses granting the company unlimited rights to use or sell the consumer's personal data without specific, informed consent are invalid.
- "As Is" for New Products: You cannot sell new products "without warranty" or "as is" to avoid the legal guarantee. (This is only allowed for used or refurbished goods, if clearly stated).

The text must be in Spanish. If they are in English, they are not enforceable against a Chilean consumer. They must be easy to read (font size, contrast) and the consumer must actively accept the same.

TAX/FUNDING

Tax

Taxation Overview. The Chilean constitution guarantees that taxes can only be established or modified by law through due process in national congress, providing stability and predictability for investors. Most of the relevant taxes are imposed at the national level, except for the municipal tax (commercial license).

Income Tax ("IT"). In Chile, IT applies to any increase in wealth during a fiscal year. Chilean domiciled or resident taxpayers, including branches of foreign entities, are taxed on a worldwide basis, while non-domiciled and non-resident taxpayers are taxed only on Chilean-source income. The most relevant IT for startups and foreign investors are the First Category Income Tax and the Withholding Tax.

First Category Income Tax ("FCT"). Corporate incomes are subject to a standard rate of 27% under the general tax regime, while SME´s regime has a reduced rate of 25%.

Withholding Tax ("WHT"). The standard WHT rate is 35%, with the FCT paid at the corporate level being totally or partially creditable against this WHT, depending on the income tax regime.

WHT for Dividends and Interests. Generally, these payments are subject to the standard WHT rate. Moreover, interest payments to foreign financial institutions and certain entities have a reduced rate of 4%. These WHT rates can also be reduced under an applicable double taxation treaty ("DTT").

WHT for Royalties. Payments for royalties, patents, and brands to non-residents are subject to a WHT of a 30% general rate. However, provided the payment beneficiary is not a tax haven resident, a reduced WHT rate of 15% applies for invention patents, utility models, industrial designs Om, software, technical assistance or engineering services. These WHT rates can also be reduced under an applicable DTT. Digital services provided to non-VAT payers, standard softwares and imports are exempt from WHT.

Capital Gains Tax ("CGT"). Capital gains are generally treated as ordinary income and taxed at the same general rates as FCT and WHT. However, capital gains derived from the sale of shares with stock market presence and certain publicly offered securities may be subject to a flat 10% tax, provided specific statutory requirements are met (including acquisition and disposal through authorized public market mechanisms).

Value Added Tax ("VAT"). The VAT rate of 19% is applicable to services and sales of goods. Exports are fully VAT exempt.

Other Taxes. Chilean tax regulations cover customs duties, stamp tax, real estate tax, inheritance and gift tax, municipal tax, along with others less significant taxes.

DTT´s and OECD Rules. Chile has implemented various OECD tax recommendations, especially regarding BEPS measures, CFC Rules and Common Reporting Standards.

Transfer Pricing Rules. The Chilean Tax Authority can assess and challenge the prices of transactions agreed between a Chilean resident or domiciled taxpayer and its non-resident related parties, if they are not market values.

Thin Capitalization Rules. In case the total annual debt on foreign loans from related parties exceeds three times the company's tax equity the local debtor must pay the difference to reach the 35% WHT standard rate.

TAX/FUNDING, CONT'D

Funding

Overview. In Chile, there are several funding and tax incentive programs which may be applicable to a startup, most of them granted or supported by the Chilean economic development agency ("CORFO"). The availability of these programs is subject to the specific application processes opened by CORFO throughout each year.

Research & Development Tax Incentive. One of the most relevant is the R&D Tax Incentive which allows a reduction in the FCT of 35% of the investment in R&D by tax credit with a maximum of USD 1,2 million. The remaining 65% of R&D investment can be deducted from IT as a required expense.

Direct Subsidies Programs. Among other relevant instruments, the "Project and Validation" CORFO program grants USD 200,000 for individual projects and USD 250,000 for collaborative projects (up to 40%-80% of the total project cost depending of company size). This program is focused on companies that aim to develop tech innovation from prototype to commercial validation

SME´s Guarantees and Intermediated Subsidies. CORFO has programs to improve the access and funding conditions for SME´s investment projects, through guarantees granted in favor of financial institutions. This agency also has intermediated subsidies that operates through Intermediary Operating Agents. Further details can be found in.



CHINA

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CHINA

LEGAL FOUNDATIONS

The legal system of the People's Republic of China ("PRC") is based on the civil law, grounded primarily in written statutes and codes. The legal structure is unitary, with legislative authority hierarchically distributed across central and local administrative layers.

The hierarchy of legal norms in the PRC, in descending order of legal force, is as follows:

Level	Type of Law	Enacting Body	Examples
1	Constitution	National People's Congress ("NPC")	Constitution of the People's Republic of China
2	National Laws (Statutes)	NPC and the Standing Committee	Civil Code, Criminal Law, Organic Law of the NPC Company Law, Labor Contract Law, Environmental Protection Law
3	Administrative Regulations	State Council	Company Registration Regulations, Implementation Regulations of the Labor Contract Law
4	Local Regulations	Provincial People's Congresses and their Standing Committees; Municipal People's Congresses (with limited scope)	Beijing Municipal Regulations on Domestic Waste Management
5	Departmental Rules	Ministries and Commissions of the State Council	Measures for Information Disclosure of Listed Companies (CSRC), Enterprise Accounting Standards (Ministry of Finance)
6	Local Government Rules	Provincial People's Governments Municipal People's Governments	Shanghai Municipal Measures for Promoting Development of Small and Medium-sized Enterprises

LEGAL FOUNDATIONS, CONT'D

Legal Intepretation:

- Legislative interpretation by the NPC Standing Committee carries equal weight to the laws themselves.
- Judicial interpretation by the Supreme People's Court and the Supreme People's Procuratorate binds judicial and prosecutorial organs.
- The legal framework is further supplemented by Guiding Cases issued by the Supreme People's Court. Although not constituting formal binding precedent, these cases serve as authoritative references that lower courts are required to consult when adjudicating similar cases.
- Administrative interpretation by the State Council and its departments binds administrative agencies.

CORPORATE STRUCTURES

PRC Law provides the following forms of companies:

A. Limited Liability Company (LLC)(有限责任公司)

This is the most popular and recommended structure for start-ups in China.

Requirements:

- Minimum shareholders: 1-50 shareholders (can be individuals or legal entities)
- Incorporation process: Submit application to local Market Supervision Administration ("AMR"), including articles of association, shareholder identification, registered address proof, and business scope description.
- Capital: No statutory minimum capital requirement and the subscribed capital contributions can be actually paid within 5 years from the date of company establishment.
- Management: shall appoint 1 legal representative, 1 executive director (or board of directors with 3 or more members if larger), 1 supervisor or board of supervisors (optional), manager (optional).

Advantages

- **Limited liability** – shareholders liable only up to subscribed capital contributions
- **No minimum capital requirement** – significantly lowers barrier to entry

Disadvantages

- **Transfer restrictions** – share transfers to non-shareholders subject to right of first refusal of other shareholders unless articles provide otherwise
- **Double taxation** – corporate income tax or preferential rates) plus individual income tax on dividends

B. Joint Stock Limited Company (股份有限公司)

Generally not recommended for early-stage start-ups due to higher complexity.

Requirements:

- Minimum shareholders: 2-200 promoters (at least half must have domicile in China)
- Minimum capital: No statutory minimum for general companies (RMB 5 million for companies seeking stock exchange listing)
- Governance: Must establish board of directors (5-19 members) and board of supervisors (minimum 3 members)
- More stringent disclosure and compliance requirements

CORPORATE STRUCTURES, CONT'D

B. Joint Stock Limited Company (股份有限公司), CONT'D

Advantages

- **Free transferability of shares** – shares can be transferred without restrictions, enhancing liquidity
- **Strong financing capability** – can issue shares publicly and list on stock exchanges (SSE, SZSE, BSE)

Disadvantages

- **High compliance costs** – strict information disclosure, audit, and shareholders' meeting requirements
- **Complex governance** – mandatory board of directors (5-19 members) and board of supervisors (over 3 members)

C. Partnerships (合伙企业)

General Partnership (普通合伙企业 - GP)

Requirements:

- Minimum partners: 2 or more partners (individuals or legal entities)
- Registration: File with Market Supervision Administration with partnership agreement
- Liability: All partners have unlimited joint and several liability with personal assets
- No minimum capital requirement

Advantages

- **No minimum capital requirement** – simple establishment without capital contribution pressure
- **Pass-through taxation** – no corporate income tax at partnership level; partners pay individual income tax only

Disadvantages

- **Unlimited liability** – all partners personally liable with entire personal assets
- **Mutual risk exposure** – any partner's fault may trigger liability for all partners

Limited Partnership (有限合伙企业 - LP)

Highly popular for investment vehicles and certain start-up structures (especially for employee stock ownership platforms and venture capital funds).

Requirements:

- Partner composition: At least 1 general partner (GP) + at least 1 limited partner (LP)
- Liability distinction:
  - General partners: Unlimited liability, manage the partnership
  - Limited partners: Liability limited to their capital contribution, no management rights
- No minimum capital requirement
- Tax treatment: "Pass-through" taxation - no corporate income tax at partnership level; partners pay individual income tax on distributed profits

Advantages

- **Control-separation structure** – GP retains management control with minimal capital while LPs contribute capital without interfering
- **Tax efficiency** – single-layer taxation avoids double taxation applicable to companies

Disadvantages

- **GP unlimited liability** – general partners bear unlimited joint and several liability with personal assets
- **Limited financing options** – cannot easily conduct equity financing like corporations; investors prefer corporate structures

CORPORATE STRUCTURES, CONT'D

D. Sole Proprietorship (个人独资企业)

Requirements:

- Single natural person investor only (no legal entities)
- Registration: Simple registration with Market Supervision Administration
- Liability: Unlimited liability - investor personally liable with all personal assets
- No minimum capital
- Tax: Individual income tax on business income (not corporate income tax)

Advantages

- **Simplest establishment** – lowest cost and fastest registration process
- **Complete control** – sole decision-making authority without consultation

Disadvantages

- **Weak financing capability** – cannot introduce any external investors or shareholders
- **Unlimited liability** – investor personally liable with all personal and family assets

ENTERING THE COUNTRY

Pursuant to the Foreign Investment Law of the People's Republic of China and the Administrative Measures for the Access of Foreign Investment (Negative List), certain investments by foreign investors require compliance with specific regulatory requirements. This applies to direct or indirect acquisitions of interests in undertakings active in sectors subject to special administrative measures.

For investments falling within the Negative List, foreign investors must obtain prior approval from the competent commerce authorities or other relevant regulators. The Negative List specifies two categories of restrictions:

- **Prohibited sectors:** Foreign investment is entirely forbidden (e.g., rare earth mining, tobacco wholesale/retail, domestic postal services, Internet news and audio-visual services, compulsory education institutions, and certain cultural/media activities).
- **Restricted sectors:** Foreign investment is permitted subject to equity caps, joint venture requirements, or Chinese control requirements.

For particularly sensitive sectors, such as defense-related industries, critical information infrastructure, and technologies affecting national security, the Ministry of Commerce and the National Development and Reform Commission conduct security reviews. In these cases, the authorities may prohibit, condition, or unwind the transaction if there is a threat to national security or public order. Such risk will be evaluated in review proceedings, which may last up to several months, with mandatory filing requirements triggered by acquisitions of any percentage of equity or assets that may result in actual control.

Additionally, all foreign investments, regardless of sector, are subject to information reporting requirements to the foreign investment information reporting system administered by the Ministry of Commerce. Failure to comply with filing obligations may result in administrative penalties, including fines and restrictions on future investment activities.

CHINA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademark

- **What is protectable?** Any sign capable of distinguishing the goods or services of one entity from another may be registered as a trademark in China. This includes words, devices, letters, numbers, three-dimensional marks, colors, sounds, and any combination of these elements. The trademark registry adopts a sub-classification system in determining similarity of goods and services. More specifically, each international class is divided into several subclasses, and goods/services falling in the same subclass are generally considered similar, and those falling in different subclasses are generally considered dissimilar.
- **Where to apply?** Trademark applications may be filed with (i) China National Intellectual Property Administration (CNIPA) for national protection; and (ii) the World Intellectual Property Organization (WIPO) under the Madrid System, as China is a contracting party. The CNIPA examines whether the trademark meets all statutory requirements. If satisfied, CNIPA will issue a preliminary approval and publish the mark in the Trademark Gazette, after which a three month opposition period follows. During this period, third parties may file oppositions. If no opposition is filed, the trademark proceeds to full registration.
- **Duration of protection?** A trademark is registered and remains valid for a period of ten years starting from the date of registration. Renewal fees are due every ten years.
- **Costs?** The costs for preparing and filing a new trademark application are around USD 720 per mark per class, inclusive of the basic official fee which covers up to 10 items of goods/services. There is an additional official fee of around USD 5 per item exceeding the 10th item in each application/class. Upon publication and grant, there is an additional fee of USD 400 for reporting the publication and receiving the registration certificate per application.

Patent

- **What is protectable?** China recognizes three categories of patents: inventions, utility models, and design patents.
  a. **Inventions** protect new technical solutions relating to products, processes, or improvements thereof. To be patentable, an invention must meet the statutory requirements of novelty, inventiveness, and industrial applicability.
  b. **Utility models** protect new technical solutions relating to the shape or structure of a product, or combination of these that are suitable for practical use. To be patentable, it must be novel, practically applicable and inventive, although the inventiveness threshold is lower than that for inventions.
  c. **Design patents** protect new designs relating to the shape, pattern, or combination of these, including partial designs, that possess aesthetic appeal and are suitable for industrial application.
- **Where to apply?** Patent applications can be filed with either (i) the CNIPA for national filings, or (ii) WIPO for international filings, using the Patent Cooperation Treaty (PCT) for inventions and utility models and the Hague System for industrial designs.
- **Duration of protection?** The terms of protection for inventions, utility models, and design patents are twenty, ten, and fifteen years from the filing date respectively, and all patent rights must be maintained through annual fees. PRC law also provides patent-term adjustments and compensations in specific circumstances, such as unreasonable examination delay or pharmaceutical regulatory delay.
- **Costs?** The official costs of national filing range from USD 70 to USD 130, depending on the category of patent being filed. Professional fees vary in accordance with the complexity of the application and the specific circumstances involved.

INTELLECTUAL PROPERTY, CONT'D

Patent, CONT'D

- **Service invention and inventor remuneration and reward?** Under the Patent Law, patents created by employees in the course of performing their assigned duties or primarily using the employer's materials, equipment, or technical resources qualify as service inventions, for which the patent application rights and resulting patent rights vest in the employer. Further, employers are obliged to provide rewards and remunerations with the employee inventors for their service inventions. The rewards and remunerations can be stipulated by agreements between the employee inventors and the employers, or by the employers' internal policies. In absence of such agreements and policies, defaults rules under the PRC Patent Law, the Patent Law Implementing Regulations, and the Law on Promoting the Transformation of Scientific and Technological Achievements shall apply.

Copyright

- **What is protectable?** In China, any intellectual works that are (a) original, (b) in the field of literature, art and science, and (c) can be expressed in a certain form can be protected by copyright. Copyright protection arises automatically upon creation.
- **Copyright registration with CPCC.** Although registration is not mandatory, copyright can be voluntarily registered with the Copyright Protection Center of China (CPCC), China's national-level copyright registration body. A copyright registration certificate is prima facie evidence for proving copyright ownership in the copyright work, and the same is generally needed for enforcement actions in China (including for example copyright Customs recordal and online takedown actions). CPCC handles registration for computer software, the formality requirements of which are different than those of other types of works.
- **Duration of protection?** Duration of copyright varies depending on the nature of the work, the exclusive right and the owner, for example:
  - For the works of natural persons, the term of protection for property rights and the personal right of publication is the lifetime of the author plus 50 years after the author's death.
  - For the works of legal persons or unincorporated organisations, the term of protection for property rights is 50 years, after the first publication of the work.
- **Costs?** The costs for filing copyright registration are around USD 1,500 per work, plus time-based charges for advising on and preparing documents required for the filings.

The following IP right cannot be registered:

Trade Secrets

- **What is protected?** Trade secret is protected by the Anti Unfair Competition Law (AUCL), which safeguards technical, business or other commercial information that is not publicly known, has commercial value, and is subject to reasonable confidentiality measures.
- **Duration of protection?** Protection applies for as long as the information remains non-public, retains commercial value, and the right holder continues to maintain reasonable confidentiality measures.

DATA PROTECTION/PRIVACY

The Personal Information Protection Law (the "PIPL") is the primary China law governing personal data processing activities. The PIPL applies to all personal data processing activities conducted within China. It also applies to the processing of Chinse residents' personal data conducted outside of China, if the purpose is to provide services or products to them or assess or analyze their behavior.

The PIPL defines "data controller" and "data processor" in the same way as the EU GDPR. A data controller is defined as the party that determines the purposes and means of processing personal data. A data processor is defined as a party that processes personal data on behalf of a data controller. Most PIPL requirements apply to the data controller. The key obligations of a data processor are to follow the data controller's instructions and take appropriate measures to protect the security and confidentiality of personal data.

The PIPL, together with a series of implementation regulations and standards, set out the following main requirements data controllers (not an exhaustive list):

- **Notice.** A data controller must fully inform data subjects all the processing details as prescribed by the PIPL via an easy-to-understand privacy notice in the Chinese language.
- **Lawful bases.** Data subjects' explicit consent is still the primary lawful basis for most processing activities, although the PIPL has provided a few alternative lawful bases (such as contractual necessity, HR management necessity, legal obligation, etc.).
- **Separate consent.** Where the lawful basis is consent, the data controller must obtain the separate consent from data subjects before conducting certain processing activities (such as processing sensitive personal data, transferring personal data outside of China, sharing personal data with separate controllers, etc.).
- **Internal governance.** The data controller must implement appropriate technical (e.g. encryption and de-identification) and organisational (e.g. access control) measures to protect personal data. It must also formulate and implement proper data protection policies and procedures and provide trainings to staff involved in data processing activities. The data controller must also conduct personal data protection impact assessments before conducting high-risk processing activities and retain the assessment reports for at least three years.
- **Data subjects' rights.** Data subjects have a set of rights to their personal data (e.g. access, correction, deletion, consent withdrawn, objection to profiling or direct marketing, portability, etc.). The data controller must provide continent channels for data subjects to raise questions and requests, and provide responses within thirty days.
- **Data incident.** The data controller must take effective measures to remediate data incidents without delay, and report incidents to the data controller and the affected data subjects within prescribed timeframes, which are based on the severity of the incident.
- **Data sharing.** The data controller must conduct due diligence on the data protection capabilities of the parties to which it provides personal data, accurately identify the parties' roles in processing the personal data and sign role specific data processing agreements.
- **International transfer.** Transferring personal data outside of China is subject to strict restrictions. In addition to notice and consent, the data controller must conduct a personal data protection impact assessment before the transfer. Depending on the purpose, volume and sensitivity of the transfer, the data controller may need to complete an administrative filing with or obtain an approval from the Chinese data regulator.
- **Registration and audit.** Certain data controllers that conduct certain processing activities (e.g. processing large volume of personal data, processing minors' personal data, etc.) must complete administratively filings with the data regulator. Periodic audits must be conducted by the data controller to assess the compliance status of its processing activities.

DATA PROTECTION/PRIVACY, CONT'D

Violation of PIPL requirements may trigger administrative penalties such as administrative warnings, correction orders, fines of up to (for the most serious offences) 5% of the previous year's annual revenue or up to RMB 50 million, confiscation of unlawful income, suspension of processing activities, and/or revocation of business license. The directly responsible personnel may also be subject to personal liability.

In addition to personal data, the processing of "important data", which is a unique Chinese law concept referring to data that may affect national security, macroeconomics and public interests, is subject to complicated requirements. Sectoral authorities are formulating guidance on important data identification. Companies are expected to identify important data and report it to the sectoral authorities. Among other requirements, important data cannot be transferred outside of China without the prior approval of the relevant authorities.

ARTIFICIAL INTELLIGENCE

There is no single comprehensive AI law in China. Instead, rules relating to the use and deployment of AI are found in a number of specific laws, regulations and mandatory national standards that regulate different subcategories of AI technologies and services. These include the Interim Measures for the Management of Generative Artificial Intelligence, the Administrative Provisions on Deep Synthesis in Internet-based Information Services, the Administrative Provisions on Recommendation Algorithms in Internet-based Information Services, the Measures for the Labelling of Artificial Intelligence Generated and Synthesized Content and a series of administrative guidance and national standards governing different aspects of AI services.

In order to provide AI services to external users (i.e. users who are not employees of the operator) in China, operators must obtain administrative licences from the Chinese authorities. To get the licenses, among all those complex qualification requirements, the underlying LLMs used must be approved by the Chinese authorities, the services must be hosted in China, and the operator must be a Chinese entity.

Other key regulatory requirements concern training data compliance, transparency, protection of usage rights, technical and organisational measures, content moderation, labelling of AI-generated content, anti-trust and anti-unfair competition measures, and so on. In addition, compliance with the generally applicable IP protection, data protection and cybersecurity laws is required.

There is an increasing focus on the enforcement of regulations surrounding the use of AI technologies in deep fakes, AI-powered human-like interactive services, and services targeting minors.

CHINA

EMPLOYEES/CONTRACTORS

General: Employers in China must conclude written employment contracts with their employees. An employer is also required to offer an open-term contract to an employee after the employee completes two consecutive fixed-term contracts or ten years of service with the employer. Although offering a contractor agreement is legally possible in China, it is rarely done in practice due to the risk that the individual may be deemed a de facto employee.

Work for hire regime: China does not have a unified work for hire regime, but the concept most closely aligned with it is the **service work**. A service work refers to a work created by an employee for the purpose of fulfilling the tasks assigned by the employer. As a general rule, copyright in a service work belongs to the employee, while the employer enjoys preferential use rights within its business scope. However, certain exceptions may apply. For example, the parties may agree in the contract that copyright ownership vests in the employer.

There are also **service inventions** under the Patent Law. Patents made during employment or primarily using the employer's resources qualify as service inventions, for which the patent application rights and resulting patent rights vest in the employer.

Registration with social security: Every employer must enroll its employees into the mandatory social insurance and housing fund schemes and pay social security contributions based on the employee's remuneration on a monthly basis.

Termination: In China, unilateral termination by an employer must be based on one of several limited statutory grounds, such as gross misconduct, incompetency, sickness, etc., which is usually very difficult to substantiate under the current legal regime in China.

In addition, certain groups of employees (e.g. pregnant employees, employees on sick leave) enjoy special termination protection and cannot be terminated on grounds like incompetency, redundancy, etc.

CONSUMER PROTECTION

The primary legislation governing consumer protection in China includes the Consumer Protection Law (2013), the Civil Code (2020), the E-Commerce Law (2019), the Product Quality Law, and the Food Safety Law. These laws apply to all activities targeted at consumers residing in China, regardless of where the entity is established.

Key Compliance Requirements

Seven-Day No-Reason Return. For remote sales conducted via internet, television, telephone, or mail order, consumers have the statutory right to return goods within seven days of receipt without providing any reason. This right is subject to limited exceptions, including customized goods, perishable items, downloaded digital content, and newspapers. For certain goods that may depreciate in value after activation (such as computers, mobile phones, and cameras), sellers must obtain explicit consumer confirmation at the point of sale that these goods are excluded from the seven-day return policy. Without such confirmation, sellers cannot refuse return requests even for these categories of goods.

CONSUMER PROTECTION, CONT'D

Key Compliance Requirements, CONT'D

Standard Terms Regulation. Any contractual terms that exempt or limit the seller's liability, or that impose additional burdens on consumers, must be presented in a prominent manner to ensure adequate notice. Certain clauses are expressly prohibited and deemed void, including those that exclude liability for personal injury, property damage caused by intentional or grossly negligent conduct, or terms that deprive consumers of their material rights. In case of ambiguity, all standard terms are interpreted against the drafter and in favor of the consumer.

Information Disclosure Obligations. Sellers must provide accurate and complete information regarding pricing, safety warnings, risk alerts, and after-sales service terms. The "Three Guarantees" policy generally requires repair, replacement, or return for defective goods within specified periods. Additionally, the collection and processing of personal information must comply with the Personal Information Protection Law, including transparent disclosure of data usage practices.

Product Quality and Safety. Producers and sellers bear strict liability for defective products that cause harm to consumers. For durable goods such as motor vehicles, computers, and household appliances, if a defect is discovered within six months of delivery, the seller bears the burden of proving that the defect did not exist at the time of delivery. Upon discovering product defects, sellers must immediately cease sales, issue warnings, and initiate recalls as necessary.

E-Commerce Specifics

Platform operators bear specific legal obligations under the E-Commerce Law. They must verify the identity of merchants using their platforms or risk joint liability for consumer harm. Transaction records must be preserved for at least three years. Platforms must establish accessible complaint resolution mechanisms and provide consumers with the actual seller's identity information upon request.

For cross-border e-commerce, goods are subject to customs supervision and must comply with Chinese labeling requirements. Platform operators, domestic service providers, and overseas sellers may all bear joint liability for consumer protection violations.

Enforcement and Remedies

Consumer disputes may be resolved through negotiation, mediation by consumer associations, administrative complaints to the State Administration for Market Regulation, or civil litigation. For large-scale consumer harm, representative actions may be brought by consumer groups, and provincial-level or above consumer associations may initiate public interest litigation.

Violations carry significant consequences. Fraudulent conduct exposes sellers to punitive damages equal to three times the purchase price, with a statutory minimum of RMB 500. Food safety violations attract even harsher penalties of ten times the purchase price, with a minimum of RMB 1,000. Administrative sanctions include correction orders, warnings, confiscation of illegal gains, fines of up to ten times the illegal gains or RMB 500,000 or more, and business license revocation. Serious violations may also trigger criminal liability.

CHINA

TERMS OF SERVICE

The enforceability of online Terms of Service in PRC is primarily governed by the principles of fairness, good faith, and consumer protection embedded in core legislation.

The Civil Code provides the fundamental legal framework governing standard contractual terms. Pursuant to Article 496, a party supplying standard terms for repeated use assumes a reasonable duty of notification and explanation. This obligates the drafting party to bring clauses which materially affect the rights and interests of the counterparty to the latter's attention in a reasonable manner and to provide clarification upon request. A failure to discharge this duty may result in such clauses not being incorporated into the contract. Moreover, Article 497 stipulates that standard terms are null and void if they contain provisions which, contrary to the principle of fairness, unreasonably exempt or limit the liability of the party supplying them, augment the liability of the counterparty, or restrict the primary rights of the counterparty.

In the context of business-to-consumer transactions, the Law of the Protection of Consumer Rights and Interests imposes specific and stringent prohibitions. Article 26 expressly invalidates standard terms, notices, and declarations that, through unfair or unreasonable means, serve to exclude or restrict the rights of consumers, diminish or exempt the liability of the business operator, or impose additional burdens upon consumers. The same article further imposes an affirmative obligation on business operators to present such content in a conspicuous manner and to provide explanations as requested by consumers.

These substantive requirements are reinforced by the overarching principles established in the E-Commerce Law, which emphasizes the obligations of e-commerce operators to conduct activities in accordance with laws and regulations, to protect the lawful rights and interests of consumers, and to ensure the clarity and fairness of their trading rules and terms of service.

What must be included / procedural requirements for enforceability

- **Clear and Conspicuous Presentation:** Terms, especially those concerning consumer major interests or liability, must be presented in a way that an average consumer can notice and access them (e.g., not hidden in fine print or obscure links).
- **Mechanism for Informed Consent:** A verifiable acceptance mechanism (e.g., click-wrap agreement where users must actively check a box) is strongly recommended over browse-wrap (mere use of the website).
- **Reasonable Duty to Inform and Explain:** As per Civil Code Article 496, providers must actively remind users of critical clauses and be prepared to explain them.
- **Governing Law and Dispute Resolution Clause:** While parties can choose foreign law and arbitration, specifying Chinese law and a Chinese court or arbitration institution often provides a clearer path to enforceability within China. The clause must be clear and unambiguous.

What cannot be included / prohibited clauses

In practice, Chinese courts and market regulators frequently scrutinize and invalidate the following types of clauses in B2C online terms:

- **Unilateral Exemption/Limitation of Liability:** Clauses that completely exempt the business from liability for damages caused by intentional misconduct or gross negligence, especially concerning personal injury or death.
- **Exclusion of Consumer Core Rights:** Terms that exclude consumers' legal rights, such as the "seven-day no-reason return" right for online purchases (with exceptions for custom goods, perishables, etc.).
- **Unilateral Right to Modify Terms:** Clauses that allow the business to modify terms unilaterally without notifying the user or obtaining consent.
- **Excessive Burden or Penalty on Consumers:** Imposing unreasonably high liquidated damages or penalties on consumers for minor breaches.
- **Restriction on Legal Remedies:** Overly short periods for consumers to file claims or sue.
- **"Final Interpretation Right" Reserved to Business:** Clauses stating that the business retains the sole or final right to interpret the terms.
- **Automatic Assent Clauses:** Provisions stating that receiving goods or signing a delivery receipt constitutes acceptance of product quality, waiving the right to inspect.

TAX/FUNDING

National Tax Regulations

Corporate Income Tax (CIT). The standard corporate tax rate is 25%, though the framework offers substantial reductions for qualifying enterprises. High and new technology enterprises (HNTE) may access a 15% preferential rate, contingent upon maintaining core independent intellectual property, meeting research and development intensity thresholds (generally ranging from 3% to 5% of revenue depending on enterprise scale), and deriving the majority of income from qualified high-tech products or services. This status requires periodic renewal and active management of IP portfolios.

Small and low-profit enterprises—defined broadly as those with annual taxable income below approximately three million renminbi, employee headcount below three hundred, and total assets below fifty million renminbi—currently benefit from an effective tax burden of 5% (calculated as 25% of taxable income taxed at the 20% reduced rate). This concession remains available through December 31, 2027, pending potential legislative extension. Strategic sectors, particularly integrated circuit manufacturing meeting specific process technology and operational duration benchmarks, may access holiday regimes or enhanced deductions.

Individual Income Tax (IIT). Tax residency hinges on domicile and physical presence, with individuals residing in China for 183 days or more within a calendar year generally subject to worldwide taxation. For startup investors and key employees, equity compensation instruments—including stock options, restricted stock units, and equity awards—trigger taxation upon exercise or vesting as employment income at progressive rates up to 45%, while subsequent dispositions attract capital gains treatment at 20%.

Certain designated innovation zones currently permit deferred taxation for qualifying high-tech enterprises, allowing tax liability to arise only upon actual share transfer rather than at exercise, provided advance filing requirements are satisfied. Foreign employees retain a time-limited election through year-end 2027 to apply either traditional tax-exempt allowances (covering housing, language training, and children's education on an actual-cost reimbursement basis) or the newer special additional deductions framework covering children's education, continuing education, major illness medical expenses, housing loan interest or rent, and elderly support; these regimes may not be combined within the same tax year.

Value Added Tax (VAT). The system applies multiple tiers: a standard rate for general goods transactions, reduced rates for essential commodities, utilities, and transportation services, and lower rates for modern services, financial services, and intangible assets, with zero-rating for qualified exports. Enterprises exceeding prescribed annual revenue thresholds (typically five million renminbi) must register as general taxpayers, enabling input tax credit mechanisms, while smaller enterprises may elect simplified calculation methods with reduced collection rates currently available through year-end 2027. Notable exceptions apply to real estate transactions and transfers of land use rights, which remain subject to higher standard rates regardless of taxpayer classification, and to sales of self-used fixed assets, which follow special reduced calculation methods.

Fully Electronic Invoices. The nationwide implementation of fully electronic invoices represents a fundamental digitization of compliance infrastructure. Traditional physical tax control devices and disk-based systems have been entirely phased out; all invoice issuance, transmission, and receipt now occurs through the national electronic platform integrated with the Golden Tax Phase IV system.
Businesses must maintain digital archives in prescribed machine-readable formats for retention periods typically extending to ten years, a significant increase from previous physical document requirements. The system now permits sellers to issue partial credit notes (red-ink invoices) without awaiting prior confirmation from the recipient, streamlining adjustment procedures, though full cancellation still requires bilateral coordination. Input tax credits must reconcile automatically against the national platform database, reducing manual verification but increasing data transparency.

TAX/FUNDING, CONT'D

National Tax Regulations, CONT'D

Withholding Tax on Cross-Border Payments. Passive income distributions—including dividends, interest, and royalties—to non-resident entities generally attract a 10% withholding tax at source. Bilateral tax treaties may reduce these rates substantially, with dividend withholding potentially decreasing to approximately 5% where the recipient qualifies as the beneficial owner of the income and the arrangement satisfies anti-abuse provisions including principal purpose tests designed to prevent treaty shopping.
Non-resident sellers of Chinese company equity face similar 10% withholding on capital gains arising from the transfer. Particular attention must be paid to indirect transfer regulations, under which offshore equity transactions effectuating indirect dispositions of Chinese taxable assets may be recharacterized as direct transfers subject to Chinese tax if lacking reasonable commercial substance or genuine economic purpose, unless qualifying for safe harbors applicable to internal group reorganizations involving wholly-owned structures or transactions conducted on recognized public securities markets.

Outbound Payment Compliance. Remittances exceeding specified thresholds (generally equivalent to several tens of thousands of dollars) for dividends, interest, royalties, and technical service fees require advance tax filing through the electronic tax system's integrated cross-border payment module. The process involves contract registration, issuance of verification codes, and subsequent withholding declaration within approximately one week of actual payment.

A persistent high-risk area involves the distinction between technical service fees (potentially triggering permanent establishment exposure if personnel presence exceeds six months within any twelve-month period under most treaties, or 183 days under specific agreements) and royalty payments involving patents, proprietary technology, or software licenses, which generally attract the 10% withholding rate regardless of service characterization. Tax authorities scrutinize this boundary closely; contracts should articulate the nature of deliverables clearly, specifying whether technology ownership transfers occur, and enterprises should maintain technical documentation supporting the service characterization to mitigate reclassification risk.

Transfer Pricing and Anti-Avoidance Framework. Enterprises engaged in substantial cross-border related-party transactions must maintain comprehensive documentation portfolios. Large multinational groups with aggregate related-party transaction values exceeding specified thresholds must prepare master files, while local documentation becomes mandatory when individual transaction categories (tangible goods, intangible assets, services, or financing) exceed prescribed monetary thresholds, typically ranging from several million to tens of millions of renminbi depending on transaction type.

The controlled foreign corporation regime attributes profits of offshore subsidiaries established in low-tax jurisdictions (typically those with effective rates below 12.5%) to Chinese resident controllers where the subsidiary accumulates earnings without valid business necessity or substantive operational presence. Furthermore, general anti-avoidance provisions permit tax authorities to disregard or restructure arrangements whose principal purpose is tax reduction and which lack reasonable commercial justification, a provision currently subject to potential legislative strengthening.

Research and Development Incentives. Through year-end 2027, enterprises may claim enhanced deductions for qualifying R&D expenditures. For expenses treated as current costs, deduction of twice the actual expenditure amount is generally permitted, while expenditures capitalized as intangible assets may be amortized at twice the standard basis. Enhanced rates of up to 220% apply to strategic sectors including integrated circuit manufacturing and industrial machinery enterprises.

Qualifying expenditures exclude routine product upgrades or aesthetic modifications, requiring genuine technological innovation. Commissioned overseas research qualifies for partial inclusion in these calculations, typically capped at a percentage of domestic qualifying expenditure. Enterprises must maintain detailed auxiliary ledgers tracking project-specific costs to substantiate claims.

TAX/FUNDING, CONT'D

Funding/Subsidies Trends and Strategic Directions

Government financial support has increasingly concentrated on strategic emerging industries, with priority allocation toward advanced manufacturing, artificial intelligence and digital technologies, clean energy and environmental technologies, semiconductor design and manufacturing, and biotechnology and medical devices.

The allocation mechanism has evolved markedly from upfront capital grants toward post-event rewards and precision targeting, emphasizing demonstrated research and development investment intensity, measurable technology commercialization outcomes, and quantifiable employment creation and retention. Foreign-invested enterprises establishing dedicated research and development facilities, regional headquarters, or engaging in collaborative innovation partnerships with domestic academic institutions currently receive prioritized consideration under many municipal programs. Applications typically route through local commissions of commerce or science and technology bureaus, with evaluation criteria emphasizing innovation capacity and market viability over simple capital investment.

Contact Points and Further Information

- State Taxation Administration: www.chinatax.gov.cn (national policy, treaty interpretations, and circulars)
- Ministry of Finance: www.mof.gov.cn (fiscal policy and subsidy frameworks)
- National tax service hotline: 12366 (operational guidance and local procedure clarification)
- Local subsidy information: Municipal bureaus of science and technology and bureaus of commerce (specific grant programs vary significantly by jurisdiction, with Shanghai, Beijing, Shenzhen, and Suzhou maintaining particularly active foreign-invested enterprise support programs)
- Digital tax services: Electronic Tax Bureau (comprehensive platform for filings, outbound payment tax clearance, invoice management, and documentation submission)

Note on Timeliness: Preferential policies regarding reduced VAT collection rates for small-scale taxpayers and enhanced R&D super-deductions currently expire December 31, 2027, absent legislative extension. Enterprises should monitor policy renewal announcements typically issued in the fourth quarter. Electronic invoice implementation details may vary by provincial tax authority; specific technical specifications should be confirmed with local tax bureaus.

WHAT ELSE?

Cybersecurity: China's cybersecurity regime centers on three laws: the Cybersecurity Law, Data Security Law, and Personal Information Protection Law. Critical Information Infrastructure operators must store personal data and important data within China and undergo mandatory security assessments for cross-border transfers. All foreign entities processing Chinese residents' data face extraterritorial obligations, including localization requirements, security reviews, and Chinese-language privacy disclosures. Non-compliance risks severe fines, business suspension, and criminal liability.



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LEGAL FOUNDATIONS

Costa Rica is a Republic, with division of powers and follows a Civil Legal System. It has a Constitution and follows a pyramidal system of regulations: International Treaties, Laws and Codes, Regulations and judicial rulings for certain cases.

CORPORATE STRUCTURES

In Costa Rica, we have two common usually incorporated types of companies, which are:

1. Sociedad Anónima, abbreviated S.A., which is a corporation.
2. Sociedad de Responsabilidad Limitada (Limited Liability Company, SRL).

For both of them, there are some general requirements to meet.

GENERAL INFORMATION

Companies in Costa Rica must be registered before the Mercantile Registry, a section of the Public Registry. In May, 2025, paragraph 6) of article 18 of the Commerce Code modified. This modification establishes that the corporations and the limited liability corporation may no longer use a name but the name will be the identification number assigned by the National Registry. Thereby, a new company will be named 3-101-00000 S.A. or S.R.L.

The aforementioned section is in charge of registering the articles of incorporation of all companies in Costa Rica, as well as future corporate amendments. Once the company is duly registered, it may begin its operation.

According to the Costa Rican laws, a minimum of two persons, who will be the initial shareholders, must grant the articles of incorporation of a company. Once the company is duly registered, there will be no restrictions on the number of shareholders of the company (e.g. sole shareholder).

All companies must have duly authorized corporate books. Said authorization shall be granted with the authorization of the company. The corporate books consist of a Shareholders Registry Book, Shareholders Meeting Minutes Book, companies will also require a Board of Directors Meeting Minutes Book. Please be informed that these Books are needed in order to amend the articles of incorporation or in order to transfer the corporate shares or any other important matter or authorization to be granted by the shareholders.

Costa Rican companies shall have a determined Management Structure, which will vary depending if it is a Sociedad Anónima or a Limited Liability Company, as indicated below. The directors will be empowered with the faculties granted through the articles of incorporation. However, the company may also grant powers of attorney or administrative capacities to additional persons who are not part of the Management Structure, such as employees or counselors.

CORPORATE STRUCTURES, CONT'D

GENERAL INFORMATION, CONT'D

If the company's representatives do not have a domicile in Costa Rica, a Resident Agent must be appointed. Said Agent shall have enough faculties to receive judicial and administrative notices on behalf of the company, and who must be a duly incorporated lawyer in Costa Rica. Its appointment and revocation shall be agreed at the Stockholders Meeting.

If the company will conduct a business activity in Costa Rica, its dividends shall only be distributed if an approved Profits and Losses Statement, determines that the company's activity has generated profits. The Statement must be approved by a Stockholders Meeting. For such purpose, the company's fiscal year normally ends on December 31st, as ordered by law. Please take note that the bankruptcy of an S.A. or a S.R.L does not imply the bankruptcy of its shareholders, since their responsibility is limited to the payment of their initial contribution to the corporate stock.

Since January 2019, a new law entered into force for all companies, which is to yearly declare the stockholders of the Company. The legal representative, which must have a local electronic signature, or by means of a power of attorney to a third party, must register the Company before Ministry of Finance and make a sworn declaration of the stockholders of the company, owned percentages, and personal information.

Companies must also pay, on a yearly basis, a legal entity tax, which must be paid every year on January. The final tax amount will depend on the company if it is commercially active or not, and the tax amount will be published every year.

The following aspects shall be useful in order to differentiate an S.A. and a S.R.L.:

SOCIEDAD ANÓNIMA (S.A.)

Corporate Stock: The corporate stock shall be composed of a determined amount of common stock shares, with voting rights. Preferential shares may be also issued, with limited or additional rights. Shares in an S.A. may be transferred by endorsement or any other binding documents. Such transfer shall also be registered on the Shareholders Registry Book.

Administration: The Stockholders Meeting is the maximum corporate authority. Representation for said Meeting may be authorized through proxy letters.

The Board of Directors acts as the Board of the company and also performs the duties of a corporate Executive Committee as it would in a U.S corporations. Said Board must have a minimum of three members, which are President, Secretary and Treasurer; their faculties shall be established in the articles of incorporation.

A comptroller must be appointed to oversee the adequate management of the company.

LIMITED LABILITY COMPANY (SOCIEDADES DE RESPONSABILIDAD LIMITADA (S.R.L.))

Corporate Stock: The corporate stock shall be composed of a determined amount of nominative shares. Shares in a S.R.L. shall not be transferred by simple endorsement. Transfer is performed by means of a Share Transfer Agreement, which is subject to the approval of the remaining shareholders. Such transfer shall also be registered on the Shareholders Registry Book. Please take note that the remaining shareholders have the right of first to buy or to refuse over an eventual share transfer.

Administration: The Shareholders Meeting is the maximum corporate authority. Representation for said Meeting may be authorized through proxy letters. S.R.L. are managed by a one or more managers or vice-managers. Said representatives shall be empowered with the faculties granted through the articles of incorporation, but they are not authorized to delegate their faculties. In addition, Costa Rican law prohibits such managers or vice managers to represent other companies with similar economic activities, or to carry out such activities on their personal behalf.

COSTA RICA

CORPORATE STRUCTURES, CONT'D

INCORPORATION REQUIREMENTS

Stockholders and percentage of shares complete name, address, occupation, marital status (if married or divorce how many times), nationality, passport number, complete address.

Company´s name. The name of the corporation will be the identification number assigned by the National Registry.

Commercial address. The commercial address mut be in Costa Rica.

Legal representation. Who or whom are going to be the legal representatives and if they will have full or limited representation

Board of Directors (President, Secretary and Treaurer) and Comprtroller (for S.A.): (complete name, address, occupation, marital status (if married or divorce how many times), nationality, passport number, complete address.

Managers or Vice Managers (for SRL) (complete name, address, occupation, marital status (if married or divorce how many times), nationality, passport number, complete address.

If the stockholders and/or legal representatives lives abroad, a Resident Agent must be appointed. Passport or identity card copies are required.

BASIC OBLIGATIONS

Legal entities annual tax payment: Due on January every year.

Final Beneficiaries annual declaration: A declaration of the shareholder of the company must be done every year.

Annual taxes sales and income declaration: Fiscal period ends on December every year and payments and declarations must be done on or before March 15th, of every year

Monthly taxes – valued added tax (IVA for its initials in Spanish) declaration and payment, due on or before the 15th day of each month.

ENTERING THE COUNTRY

Pursuant to the Costa Rican Constitution, all people within Costa Rica, nationals or foreigners, are treated equal before the Law. Thereby, there is no restrictions to be applied to foreigners, except for Maritime Zone.

The Immigration and Foreigners Law Act, Law N°7033 is the legal body that regulates the different forms of residing in Costa Rica. The main categories are:

- Parents with born child in Costa Rica.
- Temporary Labor permit.
- Executive labour permit.
- Investment in Costa Rica.
- Retirement in Costa Rica.
- Enough personal income.

All of these categories are regulated, and different requirements must be met to obtain the Costa Rican Residence.

Main requirements:

- Notarized with Apostille of the birth certificate.
- Notarized with Apostille of the criminal record.
- Requirements may vary depending on the category of residence to apply.

COSTA RICA

INTELLECTUAL PROPERTY

Costa Rican legal regulations begins with article 47 of the Constitution, and thereof according to International Treaties, Law, Regulations decrees, and certain administrative and judicial rulings.

Thereby, Costa Rica has an Intellectual Property Registry where, Patents, Industrial Designs, Trademark and other distinctive signs, Copyrights are registered pursuant to the Law.

- Patents are protected for 20 years.
- Trademarks are protected for 10 years and can be renewed indefinitely for periods of 10 years.
- Copyrights are protected for lifetime and 70 years after death.

Costa Rica, besides its regulatory IP Laws, it also has enacted its Intellectual Property Enforcement Act, called "Ley de los Procedimientos de Observancia de los Derechos de Propiedad Intelectual", Law N°8039.

This Law establishes the procedures and sanctions for any Intellectual Property violation. Mainly, it establishes:

- Border Measures granted by the Customs Authorities.
- Civil procedures, including sanctions as compensation and destruction of merchandise.
- Criminal sanctions. These cases are filed before the prosecutor's office

Costa Rican enacted the "Ley de Información No Divulgada" Trade Secrets Act, Law #7975. With this Law, Costa Rica protects not only trade secrets but confidential information among parties, especially if there is a contract negotiation undergoing.

Costa Rica is not a signatory member of the Madrid Protocol. However, the World Intellectual Property Organization WIPO and the National Registry authorities are within talks to sign this agreement.

Costa Rica recently signed to become party of the European Patent Office procedures under the European Patent Convention. Although it is signed, the Costa Rican Government has not yet pass this agreement at Congress.

DATA PROTECTION/PRIVACY

Ley de Protección de la Persona frente al Tratamiento de los Datos Personales, Ley #8968; Data Protection Act. This law has the objective to guarantee each person, national or foreigner, regardless of the nationality, domicile, the respect of their fundamental rights; particularly their rights of data self determination regarding is private life, personality rights, and the management of their personal data.

This law is based in several principles of law:

- Self determination of the personal data information.
- Information consent.
  - To be informed about the data requested.
  - The right to grant or not the consent.
- Quality of the information.
  - Recent
  - True
  - Exact

It also develops certain rights of the right holders, such as:

- Access to the data information
- Right to rectify the personal data.

The law also regulates the type of personal data:

- Sensible data.
- Restricted access to personal data.
- Unrestricted access to personal data.

It is particularly important to mention that the Law establishes the duty of confidentiality and security of the data protection, and therefore, data base management needs to comply with enforcing protocols of security.

It is not very well developed under local law due to the usage of the directives of GDPR.

COSTA RICA

ARTIFICIAL INTELLIGENCE

No, there is no specific regime for AI regulation in Costa Rica.

EMPLOYEES/CONTRACTORS

Any company must register itself before the Social Securities authorities, called, "Caja Costarricense de Seguro Social) (Caja or CCSS). This regime applies to regular employees and independent professionals.

All employers must pay the dues to the CAJA:

- 26.67% corresponds to the employer.
- 10.67% is paid by the employee, but retained by the employer.
- The employer must pay a 13 salary, without deductions every end of the year for every 12 months of labor or the proportion part.
- If severance applies in favour of the employee, the employer must pay approximately about 1 month of salary for every year of work, up to 8 years.
- Vacations are granted, 12 days per year, 1 day per month worked.
- The daily shift of work is 8 hours, up to 48 hours a week.

It is strongly recommended that employers comply with all labor regulations, otherwise, it may constitute a serious legal inconvenient between the company and government institutions.

There is a special regime for work for hire in Costa Rica which is regulated in the Labor Law Act and Copyright Act.

CONSUMER PROTECTION

Costa Rica has a Consumer Law Act, law "Ley de Promoción de la Competencia y Defensa Efectiva del Consumidor"; Ley 7472. This Law regulates both Competition and the Protection to the consumers.

There is a sophisticated entity to protect the Consumers when there is a complaint about consuming products. The companies must discharge the complaint in an administrative procedure.

Fines may be assigned to companies if the authority finds a breach of the law and a violation of consumer rights. These fines may be an in important amount of money that may start from US$5000.00-

TERMS OF SERVICE

The same law above establishes the regulation in favor of the consumers, thereby Terms and Conditions T&C must be complied with according to the law.

COSTA RICA

TAX/FUNDING

Costa Rican startups are typically organized as corporations, so the primary tax consideration is corporate tax which will be nation wide; there is no federal or local tax in Costa Rica.

A Costa Rican-resident corporation will be subject to national tax for their local revenues; in other words there is no world-wide income tax, unless there is an applicable tax treaty which is important to identify in order to limit double taxation.

Most relevant taxes in Costa Rica for a company including start ups, are:

- **Income Tax:** This tax is over the net income revenues of the fiscal year, which normally goes from January 1st, to December 31st. A Declaration must be done by March 15th; and payment, if applicable, must be paid.
- **Added Value Tax:** This tax is a 13% over total cost of the service; however it may vary depending on the product or service. Every month a declaration must be filed to Tax authorities and payment is due; however if the corporation has paid more added value tax than the services provided, the company has an amount in its favor.
- **Company Tax (Fix Fee):** Every year during January, an approximate US$200.00 fee must be paid which is an annual fee for using the Corporation. If the corporation is inactive commercially speaking the fees is 50%, or 100% exempt is the company is declared as a micro-company.
- **Social Security Obligations:** If the company has employees, it must register them within the social security authorities, which main institution is the Caja Costarricense de Seguro Social. This social security varies very much depending on the salary paid the employee; this amount calculated approximately 30% of the salary: 10% employee, 20% employer. Additionally, a 13th monthly salary is paid at the end of the year; and a fund must be saved for severance in favor oft he employee
- **Municipality Tax for Commerce Use:** Depending on the nature of the commercial business, a Municipality tax must be paid annually.
- **Distribution of Dividends within Shareholders:** After yearly income tax declaration and if there is a net profit which the shareholders wish to distribute among themeselves, the company shold retain aproximately 8% of the dividends that correspond to each share holder. Otherwise, the company may keep the dividends for future investments.
- **Capital Gains Tax:** if the company owns property and sells the property due to its commercial purpose, there is a capital gain to be calculated and paid. The tax may go from 2% to 25%.

You may see a summary of these taxes in this link: https://taxsummaries.pwc.com/costa-rica/individual/other-taxes



CROATIA

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CROATIA

LEGAL FOUNDATIONS

Croatia is a civil law country. Thus, its legal system is based on written statutes and other legal codes in the field of public, private and criminal law, which are constantly amended.

Croatian public law covers the relationship between natural and/ or legal persons and the Croatian state, while enforced by various governmental agencies and competent administrative bodies including tax administration and municipal administration bodies.

Private law governs the relationship between individuals (including legal persons) in matters such as contracts or liability and is codified in various laws. The most important source of law in this context is the Croatian Civil Obligations Act. In addition, for specific areas, additional laws and regulations are applicable (employment relations, insurance agreements, consumer protection rules, etc.).

Criminal law is mainly codified in the Croatian Criminal Act. In addition, certain laws (e.g., Croatian Commercial Companies Act) set out specific infringements as criminal deeds. In addition, misdemeanour liability is governed by the Croatian Misdemeanour Act on the procedural side, whereas specific infringements which constitute misdemeanor are envisaged within various acts (e.g., Employment Act).

Nevertheless, final judgements of the Croatian Courts (especially adopted by the Croatian Supreme Court) are often used as supporting arguments in court cases and in general should be considered and followed by lower courts.

CORPORATE STRUCTURES

In Croatia there are several types of commercial companies.

The most common vehicle for launching business in Croatia is alimited liability company. Joint stock company is also an option but is used in practice only if there are imperative reasons of legal (where law allows only joint stock companies to carry out certain activities, for instance credit institutions) or other nature (e.g., public offerings, crowdfunding, complex vesting programmes). Unless there are specific reasons for opting for a joint stock company, start-ups generally opt for setting up a limited liability company.

CORPORATE STRUCTURES, CONT'D

Limited liability company (LLC) is a most common type of company in Croatia and has the most flexible structure. For its setting up, generally:

It requires at least one shareholder (natural or legal person) who has to prepare Incorporation Deed (or Articles of Association if there is more than one shareholder) in a form of a notarial deed.

As for the company's bodies, normally, there is ageneral assembly and the company's management (board of directors). Limited liability companies can also have a supervisory board, but this the case only where there are specific practical reasons for having one (e.g., number of shareholders, trusts related schemes); Auditors are required by the law if the company's assets, annual income and/ or number of employees exceed certain thresholds. A company may be subject to audit on a consolidated basis as a sub of a mother company. Voluntary audits are also possible.

Minimum share capital amounts to 2.500,00 EUR (contributions in cash at least ¼ per shareholder/ total share capital amount), whereas all in-kind contributions have to be fully entered into the company and usually trigger the necessity for formal assessment and/or auditing of the value of in-kind contribution.

A simple limited liability company is a type of the limited liability company, which may be founded in a simplified manner, and it can consist of a maximum of five shareholders and one member of the management board. The company is formed in line with prepared forms in front of the notary public.

Its minimum amount of initial share capital may not be below EUR 1,00, which is also the lowest nominal amount of a business share. Thus, if there is more than one shareholder, the share capital increases accordingly. All contributions must be in cash, whereby specific obligations apply with respect to statutory reserves of the company which should generally be used for share capital increase (at least up to the amount of the limited liability company).

On the other hand, the minimum amount of initial share capital in joint stock companies may not be lower than EUR 25,000. Share capital is divided into stocks (which may be listed on a regulated market). In comparison to LLC's, joint stock companies have a substantially stricter structure and lack flexibility which is generally much wider in case of LLC's. Therefore, unless there are specific (sector-specific or investor-related) reasons for opting for a joint stock company, start-ups generally opt for setting up a limited liability company.

In Croatia there are also partnerships (such as personal or limited partnership), which are rarely used as a form for starting business. In addition to the above, in Croatia as a simpler form for conducting business is also used the Sole proprietorship (Cro. "obrt"), owner of which is one or more natural persons, fully and personally liable for all obligations with respect to the Sole proprietorship.

This is also to note that any additional permission requirement(s) is triggered only for specific regulated activities, such as in the financial market. For most of the regular commercial activities there are no restrictions of the kind, i.e., the registration of the company with the competent registry is sufficient.

CROATIA

ENTERING THE COUNTRY

Croatia has implemented the Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union by the implementing Act on the Control of the Foreign Direct Investments. The implementing act, which entered into force in November 2025, sets out the competent bodies and their competencies for the screening of foreign direct investments in line with the Regulation (EU) 2019/452.

In line with the aforementioned regulation, Ministry of Finance may require a foreign (non-EU/EEA) investor to deliver a specific set of information (such as source of financial funds etc.) and to apply for an approval before completion of the foreign investment. Any foreign investment which is not notified when such notification is required may be subject to control and corrective measures by the competent authorities. However, the rulebook envisioned by the implementing act - which should set out detailed submission requirements for the notification and the review procedures - has not yet been published, nor has the draft of the same been made available to the public.

For the purposes of the implementing act, foreign investment means any direct or indirect investment of any kind in an obliged entity whereby a foreign investor acquires or increases a qualified shareholding (≥10%) or obtains a controlling position for the purpose of carrying out an economic activity or the economic use of public or other goods in Croatia. A foreign investor is any natural person who is not a national of Croatia or an EU Member State, as well as any legal person established in a third country, or even a legal person in Croatia or the EU which is under direct or indirect control of a foreign investor.

Under the Act on the Control of the Foreign Direct Investments, incorporation of new companies is treated as a form of foreign direct investment. In practice, this has led to delays in registering companies founded by third-country founders, as court registers are waiting for the adoption of the rulebook that will define detailed foreign direct screening procedure mechanisms. Therefore, urgent resolution of this issue is necessary.

In addition, Croatian national bank collects and processes certain data regarding domestic and foreign (non-Croatian) investments, which triggers reporting requirements for the resident entities involved. In this respect, foreign direct investments include equity capital, reinvested earnings and debt relations between ownership-related residents and non-residents.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? A trademark may consist of any signs, particularly words, including personal names, or designs, letters, numerals, colours, the shape of goods or of their packaging, or sounds, provided that such signs are capable of distinguishing the goods or services of one undertaking from goods or services of another undertaking.

Where to apply? Trademarks can be filed either with (i) the State Intellectual Property Office of the Republic of Croatia (SIPO) online, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The minimum requirements for filing trademark applications with the SIPO are as follows:

- A sufficiently defined representation of the trademark
- Information on the applicant, name, and address
- The goods/services. The 11th edition of International Classification of goods and services is in force in Croatia
- The priority data (date, country, and number), if claimed.

INTELLECTUAL PROPERTY, CONT'D

Trademarks, CONT'D

Procedure? Upon filing a new application with the SIPO, the SIPO assigns the application number. If all formal elements of filing are satisfied, as well as absolute grounds for rejection are examined and found in compliance with the Croatian Trademark Law, the trademark application is published in the Croatian IP Gazette within a few months from the application date. In case nobody opposes the published application within three months from the publication date, the SIPO requests the applicant to pay the registration fees for the first 10 years of validity, i.e., the ten years period of the duration of protection.

After the payment of the fees, the SIPO registers the trademark in the Registry and issues an official decision on the trademark registration whereby the right holder is informed, among other things, on the registration number and date of validity of the trademark. On the basis of this Decision the trademark is granted, and the applicant can then request the official Certificate of Trademark Registration. It takes approximately 6-8 months from application until registration.

Costs?

- Filing an application including publication fees in one class = off. fees EUR 66,36
- Each additional class = off. fees EUR 19,91
- Registration fees in one class = off. fees EUR 159,27
- Each additional class = off. fees EUR 39,81
- Request for issuance of Certificate of registration (optional) = off. fees EUR 33,18

In addition, fees of the legal representative apply.

Industrial Designs

What is protectable? The appearance of the whole or a part of a product resulting from its features, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation. Product means and industrial or handicraft item, including, inter alia, parts intended to be assembled into a complex product, packaging, get-up of books, graphic symbols and typographic typefaces, but excluding computer programs.

Requirements for protection? A design shall be protected by an industrial design to the extent that it is new (novelty requirement) and has individual character. Novelty means that the registration procedure is to be initiated before the product has been put into circulation or before the design, which is the subject of protection has been made available to the public otherwise. A design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public prior to the date of filing the industrial design application.

Where to apply? National designs may be registered with the SIPO online. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. Via the WIPO Croatian applicants can also file for designs for the countries that are members of Hague Agreement. Minimum requirements for filing a design application are:

- Payment of official fees
- Information on the applicant i.e. his name and address or legal seat
- Drawings and/or photographs. The photographs must have the quality that they can be used for reproduction and printing.
- Indication of the product to which design is applied to in accordance to Locarno classification
- Data and evidence on priority right if it is claimed.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs, CONT'D

Procedure? The Croatian SIPO shall formally examine the contents of the applications and if it is found to be incomplete, shall request its completion from the applicant. If the design application is in conformity with the formal and absolute grounds requirements, the applicant will be invited to pay maintenance fee for the first five years. After the payment of the maintenance fees, the Croatian SIPO will issue the Decision on registration and the design will be published within three months since the date of registration. The design protection lasts for 5 (five) years. It can be renewed before expiration date (or in 6 months grace period) but no longer after expiration of 25 years since the application date. Please note that multiple applications are allowable, and that the application could be published in colour.

In addition, it is possible to claim the priority on the basis of design application from another country which is member of the Paris Union for the Protection of Industrial Property or member of the World Trade Organization (including Community Design), within six months from the date of application in respective country.

Costs?

- Preparing and filing a design application = official fees EUR 26,54
- Second and each further design in a multiple application = official fees EUR 6,64
- Request for first five-year validity period and publication = official fees EUR 53,09
- Second and each further design in multiple application = official fees EUR 26,54.

In addition, fees of the legal representative apply.

Patents

What is protectable? Inventions in the field of technology are patentable. A patent does not protect an idea, but a concrete solution to a technical problem. In order to achieve patent protection, the invention in any field of technology must be new, i.e. it must not be shown to the public in any way, anywhere in the world, before filing an application for protection; have an inventive step, i.e. it must not arise from the state of the art in an obvious manner to a person skilled in that state of the art; be industrially applicable, i.e. be practically (not just theoretically) applicable and suitable for production or use in the industrial scope.

Where to apply? Patent protection will be granted only per country, meaning that applicant must register the patent in each country where protection is sought. Patent applications can be filed with either the SIPO, European Patent Office (EPO) or WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection as a rule, may not exceed 20 years from the date of filing the patent application and must be maintained by annual fees.

Costs? Application costs for Croatian patents are as follows:
The timeline in order for CSIPO to issue a decision on grant will depend on the results of the substantive examination of the patent application. The related fees are:

- EUR 159,27 * - official fee. These fees also cover maintenance for the first 2 years
- EUR 0,66 ** - official fee per each additional page above 30
- EUR 1,33 ** - official fee per each additional claim above 10
- EUR 265,45 ** official fee - request for substantive examination for applications filed after the 2020-02-20.

Remarks:
* the official filing fee is reduced by 50% when online filing + additional reduction of 50% is applicable in case the applicant is also the inventor (both reductions will be cumulated)
** in case the applicant is also the inventor the official fee is reduced by 50% In addition, fees of the legal and technical representative apply.

INTELLECTUAL PROPERTY, CONT'D

Utility Model

What is protectable? Simpler inventions. Because it is registered without a substantive examination procedure, the process of registering a utility model is simple, fast and cheaper compared to the procedure for granting a patent. It therefore facilitates the protection of inventions for individual inventors and small and medium-sized enterprises. The law prescribes limitations in terms of protection by having the utility model referring exclusively to a product that shall not be an invention in the field of biotechnology, a chemical or pharmaceutical substance or an invention the commercial exploitation of which would be contrary to public order or morals, nor an invention relating to a process. Another limitation is the number of claims the Application can contain only 10 claims. Holder of a registered utility model may request the substantive examination to determine whether the invention in question is new, inventive and industrially applicable. Such a request may be submitted no later than upon expiry of the seventh year of duration of the utility model.

Where to apply? See comments on patent applications above.

Duration of protection? The protection of an invention by a utility model is valid for a maximum of 10 years from the date of filing the application of the utility model.

Costs? The timeline in order that SIPO issues a decision on registration is approximately 3-4 months and the related fees are as follows:

- EUR 100 * - official fees filing and examination of a request for utility model including the first two annuities
- EUR 65** - official fees Printing and publication
- EUR 60 official fees - Conversion of a Utility Model into a national Patent.

Remarks:
* the official filing fee is reduced by 50% when online filing + additional reduction of 50% is applicable in case the applicant is also the inventor (both reductions will be cumulated)
** in case the applicant is also the inventor the official fee is reduced by 50%
In addition, fees of the legal and technical representatives apply.

The following IP rights cannot be registered:

Copyright

What is protectable? Copyright does not protect an idea but a copyright work, expressing the idea of the human mind, irrespective of the form or quality of such expression. Further to the Croatian Copyright and Related rights Act, a copyright work is an original intellectual creation in the literary, scientific and artistic field, having an individual character, irrespective of the manner and form of its expression, its type, value or purpose.

Copyright protection is granted to the author immediately with the creation of a work, without completing any formalities such as registration or deposit of the work. No label required either.

Duration of protection? Copyright protection lasts for the life of the author and 70 years after his death. In the case of a co-authored work, copyright lasts for 70 years from the death of the co-author who has lived the longest.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work (economic copyrights) and the indispensable right to be named as author (moral copyrights). Copyrights cannot be transferred. However, in respect of the economic copyrights, author may establish on behalf of another person “right to use the copyright”. No such possibility is envisaged in regard of the moral copyright.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

What is protectable? The Croatian Law on the Protection of Unpublished Information with Market Value Unfair defines trade secret as information (such as know-how, business information and technology) which meets all of the following requirements: it is not generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; it has commercial value (for example when its unlawful acquisition, use or disclosure could harm the financial, business or other interest of the person who lawfully controls it) because it is secret and it has been subject to reasonable steps/appropriate measures, by the person lawfully in control of the information, to keep it secret. Reasonable steps/appropriate measures to preserve the confidentially of information may include the creation of an internal act on the handling of trade secrets, the circle of persons and their rights and obligations in the handling of trade secrets, or measures of physical or virtual protection of access to and handling of trade secrets and concluding NDAs.

Duration of protection? As long as appropriate measures are in place and the above requirements for trade secret are met, trade secret protection applies.

DATA PROTECTION/PRIVACY

Since May 25, 2018, the GDPR applies. The relevant Croatian specifics in the GDPR Implementation Act and Electronic Communication Act may be briefly summarized as follows:

- The age for child's consent in relation to information society services is 16 years.
- The processing of personal data through video surveillance can only be carried out for a purpose that is necessary and justified for the protection of persons and property, if the interests of the data subjects that are in conflict with the processing of data through video surveillance do not prevail.
- Video surveillance of workplaces – the processing of personal data of employees through video surveillance system can only be carried out of, in addition to the above conditions, the conditions envisaged by the regulations on occupational safety are met and if the employees were adequately informed in advance of such measure and if the employer had informed the employees before the adoption of the decision on installing video surveillance system. Video surveillance of workplace cannot include rest rooms, personal hygiene and changing rooms.
- The processing of biometric data in the private sector can only be carried out if it is prescribed by law or if it is necessary for the protection of persons, property, classified data, business secrets or for the individual and secure identification of service users, taking into account that the interests of the data subjects that are in conflict with the processing of biometric data do not prevail.
- The legal base for processing of biometric data for the secure identification of service users is the explicit consent of data subjects given in accordance with the requirements for the same envisaged in the GDPR.
- Processing of biometric data of employees for the purpose of recording working hours and for entering and leaving official premises is allowed, if it is prescribed by the law or if such processing is carried our as an alternative to another solution for recording working hours or entering and leaving official premises, provided that the employee has given explicit consent for such processing of biometric data in accordance with the provisions of the GDOR.
- Some provisions of the GDPR do not apply to the processing of personal data for purposes of carrying out official statistics by the authorized bodies.
- The use of automated calling and communication systems without human intervention, facsimile machines or electronic mail, including short messaging system (sms) and multimedia messaging services (mms), for the purposes of direct marketing and sale require data subject's prior consent. Consent for electronic messages is not required, if the controller has received the personal data in connection with a transaction, the marketing communication concerns similar products and services, and the data subject has been given the opportunity to opt-out when data has been collected for this purpose as well as with every communication (soft-opt-in).
- Prior consent for the above communications for the purposes of direct marketing and sale to legal persons is not required. However, this is only applicable if such communications do not involve personal data (i.e. if you cannot identify an individual either directly or indirectly).

DATA PROTECTION/PRIVACY, CONT'D

- All electronic mails (including sms and mms) send for the purposes of direct marketing and sale must correctly display and not conceal the identity of the sender on whose behalf the electronic mail or message is made, as well as should always have a valid electronic mail address or number to which the recipient may free of charge send a request that such communications cease.
- Prior consent is required for setting cookies which are not necessary for the provision of the service requested by the user, irrespective whether personal data is processed or not. Thus, opt-in is for example required for all marketing cookies.

In addition, the Croatian Consumer Protection Act envisages provisions in connection to unsolicited communication via telephone and/or messages. Namely, it is prohibited to make calls and/or send messages by telephone to consumers who have entered the Registry of consumers who do not want to receive calls and/or messages in the context of advertising and/or sales by telephone ("do not call" registry). The Registry is held by Croatian Regulatory Authorities for Network Industries, and it is available online at https://rnz.hakom.hr/.

"Do not call" registry applies only to consumers. Consumers are defined by Croatian Consumer Protection Act as any natural person who enters legal transaction or operates on the market outside of its trade, business, craft, or professional activity.

ARTIFICIAL INTELLIGENCE

There are no specific national regulations for AI in Croatia. In preparation for compliance with the AI Act which has entered into force, Croatia has designated the following competent authorities for its application: Ombudswoman of the Republic of Croatia, the Ombudswoman for Children, Ombudswoman for Gender Equality, Ombudswoman for Persons with Disabilities, Personal Data Protection Agency, State Electoral Commission and Agency for Electronic Media.

The Croatian Law implementing the AI Act is currently in the public consultation phase and referral to the procedure of the Government of the Republic of Croatia is expected in Q2 2026. It remains to be seen whether additional obligations other than those prescribed by the AI Act will be implemented once the national legislation and strategy has been set out.

In the meantime, in cases of automated individual decision-making, including profiling, **Article 22 GDPR** applies accordingly. This implies implementing appropriate safeguard measures and ensuring that the data subject has (at least) the right to obtain human intervention, to express his/her point of view and to contest such decision. In addition, special rules for certain specific data processing activities (e.g., processing of biometric data, genetic data, video surveillance, etc.) have been introduced by the Croatian GDPR Implementation Act. Its provisions must be taken into consideration in development or testing AI tools based on data processing activities that fall within its scope.

The Digital Croatia Strategy for the period until 2032 has placed a strong emphasis on introduction of new technological solutions (AI, machine learning, 6G, etc.), both in private and public sector. The Croatian Government has initiated the development of a **National AI Strategy** that should establish a national framework for strategic development of AI for the same period. However, detailed specifics and final version of the National AI Strategy are yet to be published.

In addition to government and regulatory efforts, the Croatian academia and civil society have also been very active regarding AI technologies. Two **University centres for AI research and development** (Zagreb and Rijeka) have been established, while the Croatian AI Association has published guidelines proposing different measures for a competitive national and EU framework that supports start-ups developing innovative solutions based on AI.

CROATIA

EMPLOYEES/CONTRACTORS

General

Written employment agreement is a must. Agreements with indefinite term, definite term, part-time and similar are normally used and negotiable. There are restrictions for the maximal duration (and number) of the agreements entered for a definite term, rules prohibiting fictional work for hire contracts that essentially represent employment agreements and similar. Generally speaking, the local labour law is developed in a very detailed manner and generally considered as relatively conservative in certain specific aspects, such as termination. The employer is considerably free to determine the terms offered to a potential employee. These can be negotiated depending on the circumstances. However, the terms must satisfy the minimum requirements provided in the Employment Act and other relevant laws. If there are different sources of law governing the same issue differently, for instance Employment Act, employment rulebook, collective agreement, employment agreement, the terms most beneficial for the employee prevail. There is also a possibility to set out the trial period in the employment agreement which may last up to 6 months.

Entry into an employment agreement must be followed by the registration of the employment with the Pension Fund and Health Insurance Fund, performed by the employer. Currently, a single application is enabled for the two funds and it must be submitted before the actual starting date of the employment relation.

Termination

Employees are very well protected. They can challenge termination of their employment relationship (depending on the reasoning for termination), for example, due to:

- proscribed motive for the termination (e.g., organizing the election of a works council, recent raising of justifiable claims against the employer);
- discrimination issues;
- formal reasons, such as in the case of termination decision's lack of explanation or not following prescribed procedure for termination;
- the termination is socially unjustified (due to failure to apply social criteria incl. age, term of work with the employer or maintenance obligations of the employee in connection with other employees at the same work position where 20 or more employees are employed).

In addition, certain groups of employees (e.g., works council or trade union members, pregnant employees, employees on parental leave or with recognized disability status) enjoy special termination protection.

There are four different grounds for unilateral regular termination by the employer:

1. termination due to business reasons ("in case when employer has no longer the need for performance of the particular job, due to reasons of economy, technical or structural reasons"),
2. termination due to personal reasons ("in case the employee is not capable of performing its duties arising out of the employment relation due to certain permanent character attributes or capabilities"),
3. termination caused by employee's fault ("in case of breach of duties/obligations undertaken in the employment contract by the employee"), as well as
4. termination due to failure to satisfy during probation period.

The Croatian Employment Act prescribes the termination procedure, remedies and other rights of the employee as well as the related termination notice periods that the employer must adhere to in each of these situations.

EMPLOYEES/CONTRACTORS, CONT'D

Digital labour platforms (DLPs)

The amendments of the Employment Act which came into effect on January 1, 2024, have introduced platform work into the Croatian employment legislation. Platform work is defined as compensated work carried out by individuals under contract for a DLP or an aggregator, utilizing digital technology either remotely through electronic means (such as a web page or mobile app) or directly on-location. A DLP is defined as a natural or legal person providing services at the request of a service recipient through digital technology, involving remote work through electronic means or on-location. On the other hand, an aggregator (representative) is defined as a natural or legal person engaged in representation or intermediation for DLPs.

Employment contracts involving DLPs must include prescribed content amongst others related to work tasks, conditions, monitoring, communication, expenses and insurance. In addition, contracts requiring on-call work have to outline the variable work schedule, reference period, minimum paid working hours, and conditions for the employee's right to refuse tasks on short notice.

There is also a legal presumption that if a DLP or aggregator contracts with an individual for work resembling an employment contract, the DLP or aggregator is considered to have concluded an employment contract as an employer. Stated presumption can be challenged only based on exhaustively prescribed facts, with the burden of proof lying with the DLP or aggregator rebutting the legal presumption. It is important to note that regulations apply not only to DLPs but also to aggregators operating within the European Union, regardless of their location and applicable law. It should be noted that the regulations exclude service providers primarily focused on asset sharing or resale of goods and services.

Finally, the process of amending the Employment Act is currently underway, which amendments will address in particular the Directive (EU) 2023/970, which establishes minimum rules for strengthening the principle of equal pay for men and women for equal work or work of equal value, prohibiting any direct or indirect discrimination regarding pay on the basis of sex, and ensuring pay transparency and stronger enforcement of the right to equal pay as well as the Directive (EU) 2024/2831, which regulates issues concerning the specific form of work of natural persons who perform work through digital labor platforms, thereby improving their working conditions. In line with the Government's plan of the legislative activities, the amendments should be adopted in the first quarter of 2026, there is still no working draft available.

Works Made in the Course of Employment: The latest amendments to the Copyright Act provide the general clause that copyright ownership of a work created by an employee in the course of their employment belongs by default to the employer. However, best practice in Croatia remains to ensure that employment agreements contain provisions whereby the legal assignment of all intellectual property related rights is explicitly confirmed.

Works Made in the Course of contracting relations: Where the entity decides to appoint students or contractors for provision of certain services (there are strict provisions relating to the prohibition of fictional work for hire which are in their substance employment agreements under supervision especially by the labour inspection and Croatian Tax Administration), each agreement should contain a clause covering the licensing of works made by such contractual partners. Such clause should be as specific as possible, in order to ensure that relevant intellectual property rights have been assigned.

CONSUMER PROTECTION

Croatian consumer protection law is rather strict and regulated in various laws, such as the Consumer Protection Act, Civil Obligations Act, E-Commerce Act and Service Act. The core provisions are laid down in the Consumer Protection Act.

Croatian Consumer Protection Act regulates a distance consumer contract prescribing also the requirements for such contracts. These requirements include the obligation of the trader to provide the prescribed information to the consumers prior to entering into the contract in a clear and comprehensible manner (we hold that it is acceptable to provide such information by means of the Terms of Use and any information not contained herein, e.g. regarding price of services, by means of a separate notification) (the same information principally correspond to the information requirements as laid down under Art. 6 and 8. of the Directive 2011/83/EU on consumer rights) and to provide the consumer with the confirmation of the contract concluded, on a durable medium within a reasonable time after the conclusion of the distance contract, and at the latest at the time of the delivery of the goods or before the performance of the service begins.

Below is the list of information which are required to be provided to the consumer prior to entering into the contract as prescribed by the Croatian Consumer Protection Act:

(a) the main characteristics of the goods or services, to the extent appropriate to the medium and to the goods or services;

(b) the identity of the trader, such as his trading name;

(c) the geographical address at which the trader is established and the trader's telephone number, fax number and e-mail address, where available, to enable the consumer to contact the trader quickly and communicate with him efficiently and, where applicable, the geographical address and identity of the trader on whose behalf he is acting;

(d) if different from the address provided in accordance with point (c), the geographical address of the place of business of the trader, and, where applicable, that of the trader on whose behalf he is acting, where the consumer can address any complaints;

(e) the total price of the goods or services inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated, as well as, where applicable, all additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;

(f) the cost of using the means of distance communication for the conclusion of the contract where that cost is calculated other than at the basic rate;

(g) the arrangements for payment, delivery, performance, the time by which the trader undertakes to deliver the goods or to perform the services and, where applicable, the trader's complaint handling policy;

(h) where a right of withdrawal exists, the conditions, time limit and procedures for exercising that right, as well as the model withdrawal form;

(i) where applicable, that the consumer will have to bear the cost of returning the goods in case of withdrawal and, for distance contracts, if the goods, by their nature, cannot normally be returned by post, the cost of returning the goods;

CONSUMER PROTECTION, CONT'D

(j) that, if the consumer exercises the right of withdrawal after having made a request, the consumer shall be liable to pay the trader reasonable costs ;

(k) where a right of withdrawal is not provided for, the information that the consumer will not benefit from a right of withdrawal or, where applicable, the circumstances under which the consumer loses his right of withdrawal;

(l) a reminder of the existence of liability for material defects of the goods and liability for conformity of digital content and digital services with the contract;

(m) where applicable, the existence and the conditions of after sale customer assistance, after-sales services and commercial guarantees;

(n) the existence of relevant codes of conduct, and how copies of them can be obtained, where applicable;

(o) the duration of the contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;

(p) where applicable, the minimum duration of the consumer's obligations under the contract;

(q) where applicable, the existence and the conditions of deposits or other financial guarantees to be paid or provided by the consumer at the request of the trader;

(r) where applicable, the functionality, including applicable technical protection measures, of digital content;

(s) where applicable, any relevant interoperability of digital content with hardware and software that the trader is aware of or can reasonably be expected to have been aware of;

(t) where applicable, the possibility of having recourse to an out-of-court complaint and redress mechanism, to which the trader is subject, and the methods for having access to it.

If a distance contract to be concluded by electronic means places the consumer under an obligation to pay, the trader shall make the consumer aware in a clear and prominent manner, and directly before the consumer places his order, of the information provided for in points (a), (e), (o) and (p) above.

In case of distance selling contracts (e.g., via webshops), E-Commerce Act and Service Act must additionally be adhered. Those regulations particularly foresee various information obligations.

Please see below under Terms of Service for more details.

CROATIA

TERMS OF SERVICE

Under the Croatian Civil Obligations Act civil obligations law, terms of services are generally enforceable in Croatia if published in "usual" manner (e.g., on a website or in app), and if the content of the same has been known to the customer or must have been known to the customer. For that reason, both "click-wrap" and "browse-wrap" style terms are acceptable. However, where possible, it is a good practice to obtain customer confirmation through an affirmative action (i.e., a checkbox or button), particularly where consumer protection, warranties, liabilities, or other issues of importance to a company are included in such terms of service.

In case of service agreements, including agreements on provision of "information society services" (any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services, such as web hosting, online sales of goods and online commercial communication, social networks and internet connection services), minimum mandatory content is prescribed by the law in the field of services and e-commerce (E-Commerce Act and Service Act), and includes:

- company name,
- seat and address,
- contact information, including email address,
- registration body and registration number,
- vat number (if the service provider is entered into the vat system),
- applicable general terms and other clauses to which the terms refer to,
- price of services and/or the manner of determination of the same,
- principal characteristics of service,
- existence of guarantees, that applies in addition to the legal warranty.

Additional formalities and mandatory content related to online terms of service apply in case of regulated industries, such as telecoms and finance, as well as in case of distance consumer contracts, as discussed in question 7 above.

In addition, consumer protection law prescribes certain clauses which are held invalid if included in consumer contracts, including distance consumer contracts, such as:

- implied renewal of the contract if specific conditions are not met,
- limitations of warranty rights,
- exclusion of liability rights for death, bodily injuries, gross negligence, willful misconduct, claims under the product liability laws, damages occurred by violations of contractual core obligations,
- one-sided rights of companies to change scope of services or prices,
- severability clauses,
- place of jurisdiction and applicable law other than at the place of consumer,
- any other non-transparent or grossly disadvantageous clause.

CROATIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

TAX/FUNDING

Tax

Corporate Income Tax (profit tax) in Croatia is applied at 10% rate if, during the taxation period, revenue has been generated up to EUR 1.000.000,00; and at 18% rate if the revenue generated has been greater than EUR 1.000.000,00. Corporate income tax applies to a company or another legal or natural person who is a resident of Croatia and performs its economic activity independently, permanently and in order to achieve profit, income or revenue, or other business relevant benefits.

Withholding Tax (i.e., tax applied to profit generated by a non-resident in Croatia) is paid at 15% rate, except in case of withholding tax on dividends and shares in profit, where the rate is 10%. Moreover, the 10% rate shall apply where remuneration for performances of foreign performers (artists, entertainers and athletes) is paid by domestic or foreign person in accordance with an agreement with a foreign person who is not a natural person, and therefore does not give rise to the obligation of assessment of income tax and contributions for the natural person who is the performer. Withholding tax is exceptionally paid at 25% rate when services subject to taxation are paid to persons with headquarters or place of effective management in countries placed on the EU list of non-cooperative jurisdictions.

Capital Gains Tax is paid for remuneration from alienation of financial assets at a rate of 12%, with the basis for taxation being determined against the acquisition price. Investors with residency in a double tax treaty state are not subject to capital gains tax in Croatia.

Value Added Tax applies to any person who independently performs any economic activity regardless of the purpose or result of performing the activity. The general rate of value added tax is 25%, with reduced rates of 13%, 15% as well as exemptions applicable to certain groups of products and services. Furthermore, taxpayers with registered seat in Croatia whose annual turnover does not exceed EUR 60.000,00 are exempt from paying value added tax for goods and services performed in Croatia. Reports on value added tax must be filed on a monthly or quarterly basis to the Croatian Tax Authority.

Funding

Incentive Measures may be used by entrepreneurs registered in Croatia who invest the prescribed minimum amount in fixed assets related to the enterprises, with the amount of minimum investment ranging from EUR 50.000,00 to EUR 3.000.000,00 depending on the size of the enterprise. The incentives may consist of corporate income tax deductions and grants, and they are applicable to production and manufacturing activities, development and innovation activities, business support activities and activities of high value-added services.

State Aid for research and development projects can be applied for by entrepreneurs for research and development projects and feasibility studies. The state aid consists of tax relief for corporate income tax up to a fixed amount per project and study, depending on the type of research which is being conducted.

Various services are available to start-ups at the **Croatian Agency for SMEs, Innovations and Investments** (HAMAG-BICRO) website, a government agency for entrepreneurs seeking sources of financing at any stage of business development. Support for investments into targeting projects may be provided by way of financial instruments. HAMAG-BICRO is also responsible for selecting projects within its jurisdiction for the purpose of allocating grants. Support to business development is also provided, including advisory and professional services, active support in innovation and internalization, business assistance, rental of offices as well as development of business ideas.

TAX/FUNDING

Funding, cont'd

The Croatian Bank for Reconstruction and Development offers loans with the goal financing the reconstruction and development of the Croatian economy and supporting development of SMEs. Investments in fixed assets are available for young entrepreneurs, start-ups, female entrepreneurs and other entrepreneurships covering special segments participating among others in business start-up, business modernisation, introduction of new technologies, development and introduction of new products and services to the market.

The Ministry of Economy provides services for investors in Croatia through the Invest Croatia platform. The available services include providing all necessary information on business and investment opportunities, support in all phases of investment in a project and connecting enrepreneurs with investors. Partner institutions include agencies tasked with development and attracting investors in specific regions of Croatia.

Zagreb Innovation Centre (ZICER) provides support to startups and entrepreneurs, with the goal to transform ideas into globally competitive products through acceleration and incubation products. Their services include workshops, mentoring, networking and financing with grants up to EUR 200.000,00.

Croatian business angels & investors (Crane) is a platform connecting investors interested in various business projects and opportunities in Croatia.

CroInvest (CroInvest) is the first Croatian crowdfunding platform for financing of entrepeneurial and other socially beneficial projects, with a special emphasis on those projects that compete for European union funds. The platform enables donations, investments in exchange for an ownership stake, interest-bearing investment and other suitable methods for funding of domestic natural and legal persons.

Information on grants from the European Union funds and open calls for applications may be found on the **eFunds website**.

WHAT ELSE?

The market entry must be well prepared. Apart from legal advice, this in any case includes competent tax advisors. Local bureaucracy is often perceived as slower and not as efficient as in some other countries (on the other hand, some local units are known for greater efficiency and investor focused approach). In addition, certain sectors of the economy currently have issues with workforce, due to the intense emigration of certain categories of citizens from Croatia into other EU countries. As a result, industries such as hospitality and construction are experiencing a significant inflow of foreign workers. Since the majority of this workforce comes from non-EU/EEA countries, Croatian employers have specific obligations regarding work and residence permits, as well as related working conditions, including accommodation.

Mandatory membership in specific chambers applies where a chamber is established by a specific statute and/or vested with public authority, such as maintaining official registers, issuing certificates, supervising professional conduct, or adopting professional standards. Membership in the Croatian Chamber of Economy (cro. "Hrvatska gospodarska komora") is mandatory for legal entities engaged in economic activities in Croatia, as prescribed by the Act on the Croatian Chamber of Economy, whereby paid membership applies for members based on their economic capacity, determined by their annual financial statements using the criteria which include total assets, revenue and number of employees.

WHAT ELSE?, CONT'D

Membership in the Croatian Chamber of Trades and Crafts (cro.: „Hrvatska obrtnička komora") is mandatory for sole traders (craftsmen) registered to perform craft activities. In addition, membership in professional chambers is mandatory for certain regulated professions such as physicians, dentists, pharmacists, attorneys, notaries public and auditors. In the latter case, membership in respective professional chambers is a prerequisite for lawfully practicing the respective profession.

Moreover, following the NIS 2 Directive, Croatian Parliament has adopted the Cybersecurity Act (CCA) (Zakon o kibernetičkoj sigurnosti, OG 14/2024) and the pertinent Regulation on Cyber Security (Uredba o kibernetičkoj sigurnosti, OG 135/2024) (the Cyber Security Regulation), both in force.

The Croatian Cybersecurity Act which has transposed the NIS2 Directive, has broadened the scope of entities subject to cybersecurity obligations by categorizing them as essential entities (e.g., critical infrastructure operators in sectors like energy, transport, banking, and healthcare) and important entities (e.g., certain digital service providers and other organizations with significant impact).

The CCA and the Regulation envisage cyber security requirements that need to be implemented by essential and important entities. The main obligations are implementation of the cyber security risk management measures and reporting obligations envisaged in the CCA, which correspond to those in the NIS2. Also, essential and important entities will be obliged to check the compliance of the established cyber security risk management measures with the cyber security risk management measures prescribed by the CCA and special regulation. Subject verification of compliance is carried out in the process of auditing the cyber security of essential and important entities and in the process of self-assessment of the cyber security of important entities.

Overall, the national legislator adopted the sectors listed in Annex I or Annex II of NIS2 as well as the classification criteria for companies as "essential" or "important" as outlined in NIS 2. It did, however, also include in the scope the following entities:

- information intermediaries in the exchange of electronic invoices among entrepreneurs, classified in the category of essential entities, regardless of their size.
- private and public entities that manage, develop or maintain state information infrastructure in accordance with the law regulating state information infrastructure, classified in the category of essential entities, regardless of their size.
- private and public entities from the education system are classified, regardless of their size, into the category of important entities, depending on the results of an assessment of their special importance at the national or regional level for the performance of educational work.

Please note that the Croatian regulator did not envisage an active approach by the entities in the process of categorization. Namely, further to the provisions of the CCA and the pertinent Cyber Security Regulation, the competent authorities, based on specific sector should undertake the categorization of the essential and important entities and notify the entities accordingly. The notification should also contain the obligation that categorized entity is subject to based on the CCA and the Regulation (i.e. all cyber security requirements: cyber security risk management measures and reporting requirements).

Essential and important entities then need to implement cyber security risk management measures within one (1) year from the date of delivery of the notification on categorization, while they are obliged to start with incident notifications reporting within 30 days from the date of delivery of the notification on categorization.

WHAT ELSE?, CONT'D

In this respect, please note that in March 2025 the National Center for Cyber Security (NCSC) (https://www.ncsc.hr/) has been established within the central government authority for cyber security, i.e. Croatian Security and Intelligence Agency (SOA) for performing the tasks set out in the CCA, including the tasks of the competent authority for the implementation of cybersecurity requirements for particular industry sectors, based on the division from Annex 3 of the CCA.

Competent authorities for the implementation of cyber security requirements are:

- the Central Government Authority for Cyber Security – Security and Intelligence Agency of the Republic of Croatia ("SOA");
- the Central State Authority for Information Security - National Security Authority („NSA");
- Croatian Regulatory Authority for Network Industries („HAKOM");
- Central State Office for Digital Society Development;
- Ministry of Science, Education and Youth.

and they perform their tasks, including categorization, according to the division of competences for particular sector from Annex III of the CCA.

PiXi Platform is a national platform for exchanging information on cyber threats and incidents. It serves as a central place for: Reporting of incidents: entities use PiXi to deliver notifications about significant incidents within legal deadlines (24h/72h). PiXi enables faster communication between categorized entities and competent CSIRT bodies.

According to the information published at the official site of the NCSC, the document "Overview of the implementation of the CCA and Regulation – Q4 2025", to date, 780 legal entities have been categorized in the Republic of Croatia as legal entities that have begun the coordinated implementation of cybersecurity measures and reporting of cyber incidents. Of these, 159 are key and 621 are important entities.

In October 2025, NCSC-HR invited all legal entities operating in the Republic of Croatia that do not meet the criteria for categorization, to voluntarily join in implementation of cyber security measures. For all legal entities who do not want to join the voluntary implementation it is recommended to independently carry out minimal measures to strengthen cyber resistance.

Entities subject to CCA have in Q4 2025 reported in total 91 cyber incidents, of which 13 significant and 78 other incidents. Among the significant incidents, the most important are two blackmail (ransomware) attacks that are financially motivated by cybercriminal groups. Also, several cases have been reported of blackmail (ransomware) attacks on legal entities that are not subject to CCA. The criminal group Qilin stands out as currently the most active in the world and in the Republic of Croatia. Among other significant cyber incidents, it should be noted that in the case of an attack on critical infrastructure, in the process of responding to incident, the EU Cybersecurity Reserve mechanism was used and the Republic of Croatia became the first member state that used the mentioned mechanism.



CYPRUS

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CYPRUS

LEGAL FOUNDATIONS

Cyprus was a British colony until 1960, when the Republic of Cyprus was established as an independent state.

Cyprus is a common law jurisdiction. The Constitution of the Republic of Cyprus preserved the British laws applicable before independence (formally referred to as 'CAP's) in force until their amendment or repeal by the House of Representatives. As a result, many Cyprus laws applicable today are remnants of British colonial laws, as amended by the House of Representatives after 1960 (including the Companies Law, CAP 113 as amended).

The laws applied by the Cyprus Courts today are the following:

- The Constitution of the Republic of Cyprus
- The Colonial laws retained in force by virtue of Article 188 of the Constitution, to the extent these have not been amended and/ or repealed,
- The principles of Common Law and Equity, as long as they are not incompatible with any law or the Constitution, and
- The Laws enacted by the House of Representatives.

In 2004 the Republic of Cyprus became a full member of the European Union and as a result European law has supremacy over the Constitution and national legislation.

There are three levels of courts in the Republic of Cyprus. The Supreme Court and the Supreme Constitutional Court, which hear, inter alia, cases at third instance, based on the authority conferred on them by the Constitution and relevant legislation, the Court of Appeal, which hears cases at second instance in which appeals are lodged against a decision of a court of first instance, and the following courts of first instance:

- Administrative Court
- District Courts (Nicosia, Limassol, Larnaca, Paphos, Famagusta, Kyrenia)
- Assize Courts
- Family Court
- Rent Control Tribunal
- Industrial Disputes Tribunal
- International Protection Administrative Court
- Military Court
- Commercial Court and
- Admiralty Court

CYPRUS

CORPORATE STRUCTURES

The main types of corporate structures a start-up might consider in Cyprus are the following:

The limited liability Company

This is the most common form of corporate structure used for carrying out business in Cyprus due to the many advantages offered, such as the limited liability, the separate legal personality and the significant tax benefits associated with this type of corporate structure.

There are 2 main types of limited liability companies which can be incorporated in Cyprus, as follows:

Companies Limited by Shares (Private/ Public)
This is the most common type of company. A private company limited by shares has a share capital, and the liability of its members is limited by its memorandum of association to any unpaid amount, for the shares they hold. A private limited liability company by shares must have at least one shareholder but no more than fifty, a secretary and at least one director. A public company limited by shares must have at least seven shareholders and a minimum authorised and issued capital, which is offered for subscription, must be €25.629.

Companies Limited by Guarantee
This type of company does not have a share capital and its members act as guarantors rather than shareholders. The liability of its members is limited by its memorandum of association, up to the amount that the members have undertaken to contribute respectively to the assets of the company in case of dissolution. This type of company is most commonly formed as a charitable or a non-profit company.

It is also possible to register a branch of a foreign company to carry on business directly in Cyprus. The following must be filed with the Registrar of Companies within one month from establishing a place of business or branch:

- a certified copy of the Memorandum and articles of association,
- a list with all directors and secretary,
- the name and address of its Cypriot representatives.

It should be mentioned that overseas companies that establish a place of business in Cyprus have an obligation under the Companies Law to register with the Registrar of Companies within one month of establishment.

Partnership

In a partnership, individuals jointly and severally share profits, responsibility, debts, and liability of the partnership as partners. There is no share capital, but the partners must contribute an amount into the partnership as capital. There is no minimum requirement of capital for registering a limited liability partnership in Cyprus.
There are two types of partnerships which can be registered in Cyprus, the general partnership and the limited partnership.

A general partnership can have between 2 and 20 partners, with the exception of banking partnerships, where the maximum number of partners is 10.

In a limited partnership one or more of the general partners have unlimited liability and the rest of the partners have limited liability.

Sole Proprietor/ Business Name

Individuals who own a business on their own account can trade under a registered business name but will remain personally responsible for all the liabilities and debts of the business. No limited liability and no separate legal personality are established with the registration of a Business Name in Cyprus.

ENTERING THE COUNTRY

Direct Foreign Investments Screening

Effective 2nd April 2026, foreign investors from third countries (natural or legal persons who are non-EU/EEA/Switzerland citizens/ based entities) must notify the Direct Foreign Investment Authority of their intention to invest and obtain the prior approval of the Authority for investments in key sectors, subject to meeting the following criteria and thresholds:

(a) The foreign direct investment results in the acquisition directly or indirectly, individually or in coordination with other persons, of a percentage corresponding to at least twenty-five percent (25%) of the share capital and/or voting rights or a corresponding ability to exercise decisive influence over the activities of a business ("qualifying participation"); and

(b) the value of the foreign direct investment, either individually or in combination with other transactions between the same parties within a period of twelve (12) months from the date on which the foreign direct investment is planned to be made, equals or exceeds the amount of two million euros (€2,000,000); and

(c) the foreign direct investment concerns an enterprise of strategic importance which is likely to affect the security or public order of the Republic of Cyprus in accordance with certain criteria, including sensitive sectors concerning critical infrastructure, such as the sectors of energy, transport, water, health, education, tourism, communications, media, data processing or storage, aerospace, defence, electoral or financial services, including systemically important credit institutions, sensitive facilities, as well as land and real estate, essential for the use of such infrastructure.

Foreign direct investments concerning ships under construction or ships that are the subject of purchase and sale, except for floating storage and regasification units (FSRUs), are exempt from the notification obligation.

A preliminary review usually takes 20 business days, with potential for a 65-business-day full screening.

Penalties for non-compliance include administrative fines and the potential to unwind or prohibit the investment.

The competent authority can examine any foreign direct investment, regardless of whether or not it falls within the scope of mandatory notification, in cases where there are reasonable grounds to believe that the foreign direct investment may affect the security or public order of the Republic of Cyprus.

Effective Management and Control of Cyprus Companies

Any individual or corporate entity can hold shares in a Company registered in Cyprus, however, for tax purposes the tax residence of the company is identified by determining where the management and control is exercised. There are several factors which are used to identify a company's location of management and control, however, as a general rule the board of directors is responsible for exercising the central management and control of a company's business.

To take advantage of the favourable corporate tax regime in Cyprus it is therefore recommended that the majority of the directors of a Cyprus registered company should be residents of Cyprus and the meetings of the board of directors should also take place in Cyprus.

ENTERING THE COUNTRY, CONT'D

Real Estate

As regards investment in real estate, non-EU nationals (including corporate entities or entities controlled by non-EU nationals) who wish to purchase real estate property in Cyprus must obtain a special permit from the Council of Ministers before the property can be transferred in their name.

A non-EU national or a couple of non-EU nationals may be granted a permit to acquire:

1. A Plot or land that has not been divided into plots with an area of up to 4000 sq.m., for the construction of a house for owner occupancy.

In the case of a couple, only one permit is granted as above.

OR

2. Up to two units which may be in a different development. These units can be either two residential units or one residential unit and a shop up to 100 sq.m. or a residential and office unit with an area of up to 250 sq.m.

In the case of a couple, the above limitation applies to the couple as a whole.

A citizen or legal person of an EU member state does not need a permit to acquire immovable property and no restrictions apply to any such person.

INTELLECTUAL PROPERTY

Cyprus law recognises the following IP rights:

Trademarks

- **What is protectable?** A trademark to be registrable must be distinctive, capable of distinguishing the products or services of an enterprise from those of other enterprises and determine the object of the protection provided to its beneficiary with clarity and accuracy. Both individuals and businesses may submit an application for trademark registration in Cyprus. There are various types of marks which may be registered in Cyprus, depending on their characteristics, including Word marks, Figurative marks, Colour marks, Sound marks, Motion marks, Multimedia marks, Hologram marks, Certification marks and Collective mark.
- **Where to Apply:** Trademarks can be filed either with (i) the Intellectual Property Section of the Department of Registrar of Companies and Intellectual Property, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. Before submitting the application, the applicant may apply to the Intellectual Property Section for a preliminary opinion regarding the possibility of safeguarding the trademark.
- **Duration of protection:** once registered, the trademark remains protected for an indefinite period, subject, however, to renewal every 10 years.
- **Costs:** The application costs for registering a trademark in Cyprus are €100,00 euro and additionally €150 per class (including the certificate's issuance cost). Additional fees may apply, if applying for registration through a legal or other representative.

Patents

- **What is protectable:** A Patent is an intellectual property right over an invention, which may concern a product, method, process, material etc. For a patent to be granted, the relevant invention must be new, involve an inventive step and be susceptible of industrial application.
- **Where to apply:** Patent protection will be granted only per country, meaning that an applicant must register the patent in each country where protection is sought. Patent applications can be filed with either the Intellectual Property Section of the Department of Registrar of Companies and Intellectual Property, European Patent Office (EPO) or WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

- **Duration of protection:** the term of protection of a patent in Cyprus is 20 years, while in the case of pharmaceutical or plant-protection products, protection can be extended up to 25 years and in case of pediatric pharmaceutical products, up to 25 years and 6 months.
- **Costs:** application costs are €230 for registering a national patent (including certificate's issuance cost and excluding international search fee), and €100 for European Patent validation in the Republic of Cyprus. International patent registration cost varies per year. Additional fees may apply, if applying for registration through a legal or other representative.

Industrial Designs

- **What is protectable**: An Industrial design or a model is the external design or the appearance of the whole or part of a product, which arises from its particular characteristics, such as, its outline, shape, form, colours, line, texture, materials, decoration, etc. Natural products, ideas, sounds, music and scents do not constitute designs or models.
- **Where to apply:** National designs may be registered with the Intellectual Property Section of the Department of Registrar of Companies and Intellectual Property. To make sure that a design or model is "new" and "unique", it is advisable to search among the registered industrial designs or models filed both in the Republic of Cyprus and abroad. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. Furthermore, a design may be registered as a national Industrial Design or sample in any other country or territory which enables such registration. In such case, it is advisable firstly to obtain information regarding the national law and the conditions for registration and protection applicable in the said countries.
- **Duration of protection:** the maximum period of protection of a design under Cyprus law is 25 years, subject, however, to renewal every 5 years.
- **Costs:** the application costs for the registration of a design in Cyprus are €85,43. Additional fees may apply, if applying for registration through a legal or other representative.

Copyright

- **What is protectable:** Copyright constitutes an intellectual property right that grants exclusive protection to the creator of a work (scientific or literary work). Copyright is acquired automatically, without the need to file the work or submit an application and the exploitation right can be exercised automatically.
- **Duration of protection:** protection of copyright under Cyprus law varies depending on the nature of the work up to 70 years from the creator's date of death.
- **Exploitation of copyright protected work:** the copyright owner has the exclusive right to exploit the work, including reproduction, advertising, sale, lease, distribution, etc. In addition, copyright over scientific, literary, musical or artistic work (including photographs) and films, provides to the creator the so-called "moral right". This right includes the creator's right, for his/her's entire lifetime, to claim the authorship of the work and to object to any distortion, mutilation or other modification of the work, that would detract the honour or reputation of the author.

Trade Secrets

- **What is protected:** Trade secrets as such are not recognized as an intellectual property asset under Cyprus law. The Law on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure of 2020 (Law No. 164(I)/2020) allows individuals and companies to protect secret information which has a commercial value from unlawful acquisition, use or disclosure. According to this law, to ensure protection of a trade secret the relevant holder should undertake all reasonable steps to protect its secrecy, including the use of non-disclosure agreements (NDAs) and the implementation of internal policies and procedures.
- **Duration of protection:** As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

Data protection in Cyprus is primarily governed by the General Data Protection Regulation (Regulation (EU) 2016/679) ('GDPR') which has been implemented into Cypriot law by Law 125(I) of 2018 Providing For The Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of Such Data. This law is supplemented by the The Law Regulating Electronic Communications and Postal Services 112(I)/2004, as amended (the "Telecoms Law"). There are a few national particularities (derogations) under Cyprus law, the most notable of which include the following:

- The age for minor's consent in relation to information society services is 14 years
- The Controller can be exempt, wholly or partly, from the responsibility of communicating the personal data breach to the data subject, for one or more of the reasons stated in Article 23(1) of the Regulation provided that a prior impact assessment and prior consultation with the Commissioner have taken place. The Commissioner can also impose terms and conditions to the Controller, in respect of any such exemption.
- Processing of genetic and biometric data for health insurance purposes is prohibited.
- The processing which is carried out by a controller or a processor for archiving purposes in the public interest, scientific, or historical research purposes or statistical purposes shall not be used for taking a decision which produces legal effects concerning the data subject or similarly significantly affects them.
- Under the Electronic Communications Law, the use of electronic mail for the purposes of direct marketing is permissible only in the case of addressees who have given their prior consent. The only exception in Cyprus where the principle of 'opt-out' applies is where a sender has been provided by a customer with an email address in the course of a sale of goods or services. Individuals or legal entities that obtain their customers' personal data (e.g. e-mail addresses) in the course of the sale of a product or service may use these data for direct promotion of their own similar products or services so long as customers are aware of this practice and given the opportunity to decline receipt of communications in the future.
- When the controller or the processor intends to transfer special categories of personal data to a recipient in a third country or to an international organisation and the intended transfer is based on appropriate safeguards provided for in Article 46 of the GDPR or on binding corporate rules ('BCRs') provided for in Article 47 of the GDPR, the controller or processor must inform the Commissioner of the intended transfer before the data is transferred.
- The processing of special categories of data laid down in Article 9 of the GDPR is permitted and is lawful when it is carried out for the purpose of publishing or issuing a decision of any court or when it is necessary for the purpose of delivering justice.
- The right to be informed and the right of access under Articles 14 and 15 of the GDPR shall apply to the extent that they do not affect the right to freedom of expression and information and the press confidentiality.

The regulatory authority for data protection in Cyprus is the Commissioner for Personal Data Protection, established in 2002. The office of the Commissioner is currently staffed by nine officers and five administrative members of staff.

ARTIFICIAL INTELLIGENCE

In August 2024, shortly after the AI Act entered into force, the Deputy Minister of Research, Innovation and Digital Policy announced that "the implementation of the AI Act lays the foundation for the effective exploitation of this promising technology, in both the public and private sectors. Through a risk management approach, technological development is encouraged, but with safety, reliability, transparency, respect for the fundamental rights and values of the EU, and with the broader good of society as a primary concern.

As Cyprus, we have already initiated the actions foreseen in the framework of the regulation, such as the designation of the competent authorities for market surveillance and accreditation of the various organizations - which should be done within one year of the implementation of the regulation - and the preparation of the relevant national legislation."

The AI Act has already entered into force and will apply through direct effect across all EU Member States from 2 August 2026.

In November 2024, the first milestone for the implementation of Regulation (EU) 2024/1689 on Artificial Intelligence in Cyprus was announced. In particular, the Deputy Ministry of Research, Innovation and Digital Policy has notified the European Commission of a list of three national public authorities that will supervise or enforce compliance with the obligations under EU law to protect fundamental rights, in accordance with Article 77 of Regulation (EU) 2024/1689 on Artificial Intelligence (AI Act). This action completes the first obligation of Cyprus for the national implementation of the AI Regulation.
The list of public authorities of the Republic of Cyprus is as follows:

- Commissioner for Personal Data Protection
- Commissioner for Administration and the Protection of Human Rights (Ombudsman)
- Attorney-General of the Republic

It is noted that the authorities included in the list will be granted additional powers under the Regulation to facilitate the exercise of their existing responsibilities to protect fundamental rights in cases where the use of artificial intelligence (AI) poses high risks to these rights.

These powers will take effect from 2 August 2026.

The list is subject to revision whenever necessary to ensure that it remains up to date.

Furthermore, certain relevant general restrictions, particularly under data protection apply. The principles of data protection law – in particular Art 22 GDPR for automated individual decision-making – must be observed in relation to the development, testing and operation of AI. Thus, the use of AI must not lead to any legal or similarly serious effects to the data subject, without any human intervention. An automated decision-making process is for example assumed, if a company uses results of an AI-application without any further quality-check and assessment.

On 22/01/2025, the Council of Ministers of Cyprus approved the establishment of a National Specialised Committee on Artificial Intelligence, commonly referred to as the AI Taskforce, an advisory body with the mission to foster AI integration in Cyprus. Its objectives include boosting the economy, enhancing competitiveness, and improving the quality of life for citizens.

The Taskforce will offer the President of the Republic of Cyprus strategic recommendations and evidence-based proposals through the Deputy Ministry. Its key areas of focus include:

- National AI Strategy Development
- Identifying AI Applications
- Enhancing Public Services
- Monitoring Global Trends
- Fostering Research and Innovation

CYPRUS

EMPLOYEES/CONTRACTORS

General

Employment contracts are not required under Cypriot law, although they are considered advisable. Employers are required to provide employees with specific information in writing, within one month of the commencement of employment, including the identity of the parties, the place of work and registered address, the position or specialisation of the employee and the nature of his duties, the date of commencement and duration of employment, annual leave entitlement, termination notice periods, salary and benefits, working hours, and details of any collective agreements that may apply to the employee.

Employment contracts can be for a fixed term or an indefinite term, provided that employment that exceeds 30 months will be automatically considered to be of indefinite term unless the employer can show that the fixed term is justified by objective reasons (such as the temporary nature of the requirements of the position, the temporary replacement of another employee, special characteristics of the position, etc). Furthermore, the termination of employment at the end of a fixed term may be considered unlawful if the Industrial Disputes Court considers that, as a matter of fact, the employment relationship was for an indefinite term.

Work for Hire

There is no statutory work for hire regime under Cyprus law. Unlike employment agreements, which although contractual in nature are regulated by a wide range of employment laws and regulations, agreements for services are exclusively governed by contract law.

To determine whether a person is an employee or an independent contractor, the entire arrangement between the parties should be considered, particularly the parties' rights and obligations.

Under Cyprus law, rights to intellectual property which are recognised by law initially belong to the creator. However, when the creation of a work is performed during the employment of the creator, as part of the terms and conditions of his employment contract, the intellectual property right is deemed to be transferred to the creator's employer, subject to any agreement between the parties to exclude or limit such transfer.

Registration with Social Insurance

Every employer has a legal obligation to register its employees with Social Insurance and make contributions based on their salary to the Social Insurance Fund. In addition to Social Insurance contributions, employers in Cyprus are required to make certain other contributions for the employee to the General Health System, the Redundancy Fund, the Social Cohesion Fund and the Industrial Training Fund.

Termination

Employment law in Cyprus is a form of social legislation, a term commonly used to describe statutory provisions which protect weaker members of the society.

Under Cyprus law termination of employment is lawful only if it can be justified based on one of the below grounds:

- where the employee does not perform his or her duties in a reasonably satisfactory manner (excluding temporary incapacity for work due to illness, injury or childbirth),
- where the employee has been made redundant in accordance with statute,
- where the termination is due to force majeure, act of war, civil commotion, act of God, destruction or similar event,
- where the employment is terminated at the end of a fixed period of employment,
- where the employee displays conduct such as to render him- or herself subject to summary dismissal, or
- where the employee has displayed such conduct as to make it clear that the relationship between employer and employee cannot reasonably be expected to continue, committed a serious disciplinary or criminal offence, behaved indecently during the performance of his or her duties or repeatedly violated or ignored the rules of his or her employment.

In addition, certain groups of employees (e.g. pregnant employees, employees on maternal or paternal leave and employees on sick leave) enjoy special termination protection.

Statutory compensation for unlawful dismissal is payable by the employer depending on the period of the employee's continuous employment. Depending on the circumstances an unlawfully dismissed employee may also claim damages for breach of contract or loss of career prospects.

Moreover, a specialised Industrial Disputes Tribunal has primary jurisdiction to hear and decide any disputes arising in the application of most employment related laws, including termination of employment disputes.

CONSUMER PROTECTION

Cyprus consumer protection law is a consumer-friendly statutory regime which harmonizes the national law E.U. law and the requirements of Regulation (EU) 2017/2394. It also consolidates various other relevant consumer protection laws (such as the unfair terms to consumers law) into a single statutory instrument.

Under Cyprus law, consumers have certain rights, depending on whether they are buying goods or services in commercial stores or entering into distance selling contracts, as the case may be.

Such rights include the disclosure of certain information by the seller, including the main characteristics of the goods or services, the identity of the trader and its geographic address, the total price of the goods or services, including taxes, or if, due to the nature of the goods or services, the price cannot reasonably be determined in advance, the manner in which the price is to be calculated and, where appropriate, all additional shipping, delivery or postal charges or, where such charges cannot reasonably be calculated in advance, the fact that such additional charges may be required, etc., where applicable, the possibility of recourse to an out-of-Court grievance mechanism and redress to which the trader is subject, as well as the ways to access it, etc.

In the case of distance selling contracts the consumer may, within a period of 14 days, withdraw from the distance contract without stating the reasons and without any charge other than any charges relating to a delivery method other than the cheapest standard delivery method offered by the trader, if the consumer expressly chose such delivery method. If consumers are not sufficiently informed about the right of withdrawal, this right is automatically extended for up to one year.

The Consumer Protection Service of the Ministry of Energy, Trade and Industry has as its mission the assurance of a high level of consumer protection in the liberalized and competitive market. This is achieved through a network of actions that ensure the empowerment of consumers and concern the effective compliance control of the market based on the legislative framework, the strengthening of consumer safety and the improvement of information and education of consumers and businesses.

The main responsibilities of the Service, as derived from its mission, include, inter alia, modernization and effective implementation of the legislative framework for consumer protection and the operation of the market surveillance system for effective enforcement.

TERMS OF SERVICE

Yes, the trader must provide the information required by law to the consumer on paper or, if the consumer agrees, on another durable medium and this information must be legible and worded in simple and understandable language for the terms to be enforceable.

Furthermore, the trader should provide the consumer with a copy of the signed contract or confirmation of the contract on paper or, if the consumer agrees, on another durable medium.

Abusive clauses in a contract between a trader and a consumer do not bind the consumer, however, the contract continues to bind the parties, unless it cannot continue to exist without the abusive clause.

TERMS OF SERVICE, CONT'D

Appendix IV of the of the Consumer Protection Law of 2021 includes an indicative list of clauses which may be considered abusive. This list includes clauses which have the following purpose or result:

- exclude or limit the trader's statutory liability in the event of death or personal injury to a consumer resulting from the trader's own act or omission;
- exclude or improperly limit the consumer's statutory rights against the trader or other contracting party in the event of non-full or partial performance or defective performance of any of the contractual obligations on the part of the trader;
- exclude the consumer's right of withdrawal, while the fulfilment of the trader's obligations is subject to a condition, the fulfilment of which depends on his will alone;
- allow the trader to withhold the sums paid by the consumer when the consumer withdraws and does not accept to conclude or perform the contract, without providing for the right of the consumer to receive equivalent compensation from the trader when the latter withdraws;
- impose disproportionately high compensation on the defaulting consumer;
- allow the trader to terminate the contract at his discretion, while the same option is not granted to the consumer;
- allow the trader to terminate without reasonable notice an open-ended contract, unless there is good cause;
- irrevocably infer the consumer's acceptance of clauses of which he had no real possibility of knowing before entering into the contract;
- allow the trader to unilaterally modify the terms of the contract without a serious reason which is provided for in the contract;
- allow the merchant to unilaterally and without serious reason modify the characteristics of the product to be delivered or the service to be provided;
- provide that the price of the goods is fixed at the time of delivery or give the trader the right to increase his prices, without the consumer having, in either case, a corresponding right to terminate the contract in the event that the final price is too high in relation to the price agreed at the conclusion of the contract.

TAX/FUNDING

Cypriot start-ups are typically organized in the legal form of corporations. Therefore, we limit our tax overview on the investment into start-ups organized as a Cypriot corporation.

Tax

The below taxes are relevant to foreign entities who want to establish a place of business in Cyprus as of 1st January 2026.

Withholding Tax on Royalties

Cyprus does not levy a Witholding Tax on royalties paid to non-residents of Cyprus except in the case of royalties earned on rights used within Cyprus, which are subject to a WHT of 10% (5% in the case of cinematographic films).

Such WHT may be reduced or eliminated by double tax treaties entered into by Cyprus or by the EU Interest and Royalty Directive as implemented into Cyprus law.

A 10% WHT applies to royalty payments made to companies located in jurisdictions on the EU's non-cooperative tax list

It should be noted that currently Cyprus maintains double tax treaties with more than 65 countries.

TAX/FUNDING, CONT'D

Tax, CONT'D

Capital Gains Tax

Where the disposal is not subject to income tax, Capital Gains Tax (CGT) at the rate of 20% is imposed on gains from the disposal of immovable property located in Cyprus. This includes gains from the disposal of shares in companies which directly own immovable property located in Cyprus.

VAT

VAT applies on the supply of goods and the provision of services in Cyprus, as well as on the acquisition of goods from the EU and the importation of goods into Cyprus. The standard VAT rate is 19% and this generally applies to all goods and services for which no exemption or reduced VAT rate is provided.
Reduced VAT rates apply to certain categories of services.

Certain goods or services are exempt from VAT, such as leasing of residential premises, banking, financial and insurance services, management services to mutual funds, etc.

More information on V.A.T. rates can be found here.

Special Defense Contribution

Special Defense Contribution ("**SDC**") is imposed on dividend income, 'passive' interest income and rental income earned by companies which are tax resident in Cyprus and by individuals who are both Cyprus tax resident and Cyprus domiciled.

As of 1st January 2026, the Special Defense Contribution is 5%. Dividends and interest paid to Cyprus residents is generally subject to 5% SDC, subject to certain exemptions.

Dividends paid by Cyprus tax resident companies out of profits earned up to 31 December 2025 remain subject to 17% SDC, provided the dividend is received on or before 31 December 2031.

Furthermore, rental income is no longer subject to SDC.

Stamp Duty

Stamp duty was imposed on certain types of contractual documents irrespective of the place of their execution, if they concerned assets located in Cyprus or matters or things to be performed or done in Cyprus until 31/12/2025.

Stamp duty in Cyprus was officially abolished for all contracts, legal instruments, and agreements executed on or after 1st January 2026.

Documents signed on or before 31st December 2025 remain subject to stamp duty under the previous regulations.

R&D Incentive relevant for start-ups

Expenses for research and development recognized based on international accounting standards, incurred wholly and exclusively for the production of income, incurred by a person (legal or physical) who runs a business and has economic ownership of the intangible asset are a deductible expense under Cyprus law. Such a deduction is granted in accordance with the provisions of the Income Tax Law provided the above expenses are of a capital nature.

TAX/FUNDING, CONT'D

Tax, CONT'D

The Intellectual Property (IP) box tax regime

There is a corporate tax rate of 2.5% on the income deriving from the use/exploitation of certain IP assets, i.e. royalties, licensing fees, gains on sale of IP, and patent infringement awards for damages.

Funding

The startup ecosystem consists of private and public organizations that help to strengthen and finance them with the aim of innovation in science, economy and entertainment. The main funding body for business research and financial support for the development of start-ups of international scope is the Cyprus Research and Innovation Foundation (CRI). The CRI, jointly funded by the Cypriot government and the EU Structural Funds, offers schemes (based on eligibility and quality criteria) for financing start-ups for research and initial development. These grants cover up to 85% of the invested capital.

The Industry and Technology Service (part of the Ministry of Energy, Commerce and Industry) manages and distributes funding under a range of funding programmes. Its recent work includes the following:

- Enhancing the competitiveness of SMEs in the construction sector and other specialised economic activities
- Women's entrepreneurship
- Youth entrepreneurship
- Manufacturing/marketing/development of agricultural products e. Encouraging investment activity and strengthening the wine industry
- Enhancing business innovation

Business initiatives in Cyprus, especially those with the potential to penetrate major international markets or sectors, receive financing through Cypriot banks. To obtain a loan, you must provide security in the form of liquid or non-liquid assets and be able to partially finance your project. To obtain financing through loans in Cyprus, you must present to a banking institution your detailed business plan, strategy and growth potential, as well as demonstrate the projected income of your business.

Shareholders who can demonstrate their experience at a local or international level are considered to have a confidence advantage.

Access to funding in Cyprus, including funding from certain EU programs, is mainly available through the following contact points:

The Ministry of Energy, Commerce and Industry: the Ministry of Energy, Commerce and Industry has established an electronic portal (available here) through which applications can be submitted for a number of funding projects for which the Ministry is responsible, such as the New Business Activity Support Plan which is included in the "THALIA" Program 2021-2027 and was co-financed by the European Regional Development Fund (ERDF), the European Social Fund (ESF+) of the EU and the Republic of Cyprus.

A list of all funding programmes currently open to applications for which the Ministry is responsible can be found here.

TAX/FUNDING, CONT'D

Tax, CONT'D

The Research and Innovation Foundation ("RIF"): The RIF is the national authority in charge of supporting and promoting research, technological development and innovation in Cyprus.

Since its establishment, the Foundation has developed widespread activities at the National, European and International levels, with a strong focus on the development of national research programs, as well as the representation of Cyprus in European and International programs and organizations. Following a relevant decision by the Council of Ministers in 2007, the Foundation expanded its range of activities to also support and advance Innovation in Cyprus.

After a further decision by the Council of Ministers in October 2018, for the overall restructuring of the Research, Technological Development and Innovation System in Cyprus, the Foundation was renamed to Research and Innovation Foundation (RIF) and took over the role of the executive arm of this System.
As such, the RIF is responsible for several funding programmes relevant to businesses and innovation every year, a list of which can be found here.

The Ministry of Labor and Social Insurance: The Ministry of Labor and Social Insurance is also responsible for a number of funding projects every year aimed at strengthening employment and combating unemployment, such as the Incentives Plan for Employment of the Unemployed. In 2024 the program promoted employment in special categories of people, providing financial grants ranging from €5,000 to €22,360.

Competent Bodies under the Cyprus Recovery and Resilience Plan: In order to ensure transparency and to immediately inform potential Beneficiaries about the funding opportunities offered within the framework of the Cyprus Recovery and Resilience Plan (CRP), the Calls for Proposals issued by the competent Bodies within the framework of the implementation of the individual Grants / Incentives Schemes included in the CRP are posted on the Financial Programmes Information Portal of the General Directorate for Development, in a special section that has been created for the Cyprus CRP. Through the Portal, interested parties have the opportunity to search for Calls for Proposals by program category (one of which is the CRP), by thematic unit (e.g. employment, industry, energy, transport, environment, health, etc.), by Beneficiary category (e.g. unemployed, Local Government Authorities, employees, employers, researchers, SMEs, large enterprises, universities, etc.).

WHAT ELSE?

Cybersecurity: Cyprus' cybersecurity legal framework is primarily based on EU directives, notably the transposition of the NIS2 Directive to strengthen security for critical infrastructure. The framework, enforced by the Digital Security Authority (DSA) and supported by CSIRT-CY, mandates strict risk management, incident reporting (within 6–72 hours), and supply chain security for essential and important entities.

The framework is supplemented by the General Data Protection Regulation (GDPR) and implanting Cyprus law provisions, which requires strict, secure handling of personal data and the Digital Operational Resilience Act (DORA) which applies to the financial sector, while the EU Cybersecurity Act sets out voluntary certification schemes for ICT products.

Memberships: Key memberships for Cyprus businesses include the Cyprus Chamber of Commerce and Industry (CCCI), Cyprus International Businesses Association (CIBA), the Employers and Industrialists Federation (OEB) where membership is optional and certain industry-specific regulatory bodies where membership is compulsory, like the Institute of Certified Public Accountants (ICPAC), the Cyprus Bar Association (CBA) and others.

These associations provide networking, lobbying, and business support, with annual fees ranging from tailored corporate plans to standardized memberships.

Business Regulation: In addition to strict professional licensing and regulatory requirements which may apply under specific relevant laws, for the use of any building, structure or premises within which any business activity (industry, trade, the exercise of a profession or any other activity that provides income) is carried out in the Republic of Cyprus, it is required to obtain a permit to use the premises for a business activity from the relevant Municipal or Community Council within the limits of which the business will be carried out.

Details regarding the relevant application and the requirements for obtaining such a license can be found here.

Non-compete clauses: Any clause in an employment contract aimed at preventing an individual from undertaking any type of work after the termination of an employment relationship are generally considered unenforceable under Cyprus law.



CZECH REPUBLIC

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CZECH REPUBLIC

LEGAL FOUNDATIONS

The Czech Republic has a **civil law system** based on written acts of law, taking the form of statutes passed by a two-chamber Parliament and secondary regulations passed by the Government and administrative and local bodies. The international treaties and EU laws take precedence in case of a conflict with Czech national laws.

Case law is traditionally not recognized as a formal source of law. However, decisions from higher courts, such as the Czech Constitutional Court (Ústavní soud), Supreme Court (Nejvyšší soud), and Supreme Administrative Court (Nejvyšší správní soud) are often used as supporting arguments and must be generally considered by lower courts.

Although the Czech Republic consists of 14 regions (kraje), the entire territory forms one **unitary state** (i.e., not a federation). Local bodies may regulate only matters of local significance and not in contradiction with national laws.

CORPORATE STRUCTURES

The two most relevant types of companies that start-ups should consider when starting their business in the Czech Republic are the **Limited Liability Company** (s.r.o., společnost s ručením omezeným) and the **Joint-Stock Company** (a.s., akciová společnost).

Limited Liability Company (s.r.o., společnost s ručením omezeným)

The most common form of company in the Czech Republic. The requirements of the Limited Liability Company are as follows:

- It requires at least one founder (shareholder), who may either be a natural or legal person. There is no maximum number of shareholders as well as no restrictions on foreign shareholders.
- Each shareholder must pay a minimum capital contribution of CZK 1 (approximately EUR 0.04). i.e., in the case of a sole shareholder, the minimum registered capital amounts to CZK 1. Prior to filing the application for registration of the company in the Commercial Register, 100% of all non-monetary contributions and at least 30% of the amount of each cash contribution must be paid up. Registered capital must be fully paid up within 5 years of the company's establishment.
- The shareholder(s) must adopt the foundation documents (Memorandum of Association) in the form of a Czech notarial deed.
- The company must be registered in the Czech Commercial Register to be established.
- In order to carry out business activities, in the vast majority of cases, a relevant business license needs to be obtained. The company which obtains the trade license will be registered in the Trade Licensing Register (Živnostenský rejstřík).

CORPORATE STRUCTURES, CONT'D

Limited Liability Company (s.r.o., společnost s ručením omezeným), CONT'D

The shareholders are liable for the company's debts only to a limited extent, i.e., they are jointly and severally liable for the company's debts up to the amount of their unpaid contributions to the registered capital, pursuant to the record in the Commercial Register (Obchodní rejstřík) at the time when fulfilment (of the debt) was demanded by a creditor.

ADVANTAGES

- Limited liability of the shareholders.
- Flexible structure of corporate governance.
- Minimum capital contribution of CZK 1.

DISADVANTAGES

- The Memorandum of Association must be in the form of a notarial deed.
- Since the ownership interest is not represented by a security by default, contractual equivalents need to be set up for some of the mechanisms commonly used in startup investing.

Joint-Stock Company (a.s., akciová společnost)

The second most popular form of a company in the Czech Republic. The requirements of the Joint-Stock Company are as follows:

- It requires at least one founder (shareholder), who may either be a natural or legal person. There is no maximum number of shareholders as well as no restrictions on foreign shareholders.
- The minimum registered capital is set to an amount of CZK 2,000,000 or EUR 80,000. Registered capital must be paid up in full within 1 year from the company's establishment.
- The establishment of the company is effective when 100% of all non-monetary contributions and at least 30% in aggregate of the subscribed shares have been paid up by shareholders.
- The shareholder(s) must adopt the foundation documents (Articles of Association) in the form of a Czech notarial deed.
- The company must be registered in the Czech Commercial Register to be established.
- In order to carry out business activities, in the vast majority of cases, a relevant business license needs to be obtained. The company which obtains the trade license will be registered in the Trade Licensing Register.

Participation in a Joint-Stock Company is embodied in shares (type of security). Besides the physical form, shares might be issued as book-entry securities (which is more and more common these days). The company issues shares either in the form of bearer shares or registered shares.

The company's internal organisation may be either dualistic (Board of Directors and Supervisory Board) or monistic (Administrative Board).

ADVANTAGES

- No liability of the shareholders.
- Transferability of the shares may not be excluded.
- Ownership structure is not publicly accessible (unless there is a sole shareholder).

DISADVANTAGES

- The Articles of Association must be in the form of a notarial deed.
- The minimum amount of the registered capital amounts to CZK 2,000,000 or EUR 80,000.

CORPORATE STRUCTURES, CONT'D

Partnerships (osobní společnosti)

The partnerships include **Unlimited Partnership** (v.o.s., veřejná obchodní společnost) and **Limited Partnership** (k.s., komanditní společnost).

In the case of the **Unlimited Partnerships**, the shareholders are not obliged to provide a contribution to the registered capital and the company does not have to create a registered capital. All shareholders are jointly and severally liable to the full extent with their private and business assets.

The **Limited Partnership** has at least one general partner (komplementář) and one limited partner (komanditista). Only the limited partners are obliged to provide contribution to the registered capital, and they are jointly and severally liable for the company's debts up to the amount of their unpaid contribution to the registered capital, pursuant to the record in the Commercial Register at the time when fulfilment (of the debt) was demanded by a creditor. The general partner is liable to the full extent with their private and business assets.

Sole Proprietorship

The sole proprietor is a single natural person who is liable to the full extent with their private and business assets. This form of operating business is the most common one in the Czech Republic. In order to carry out business activities, usually a relevant business license needs to be obtained. The proprietor who obtains the trade license will be registered in the Trade Licensing Register (Živnostenský rejstřík). This form is available also to foreign nationals, provided they have adequate residence permits.

ENTERING THE COUNTRY

Non-EU foreign direct investments may be subject to **mandatory clearance by the Ministry of Industry and Trade** (Ministerstvo průmyslu a obchodu). That is to prevent a gain of control over certain strategic sectors or access to sensitive technology and information. The threshold for control includes, among others, controlling at least 10% of a company's voting rights.

Foreign direct investments in certain sensitive sectors, such as arms, certain dual-use goods, critical infrastructure, and regulated services under the higher obligations regime under the Cybersecurity Act are always subject to **prior approval** by the Ministry of Industry and Trade. Starting from 1 November 2025, the scope of investors subject to mandatory screening shall significantly broaden due to the entry into force of the new Cybersecurity Act.

Foreign direct investments that do not require prior approval may nevertheless be reviewed **ex post** if they may threaten the security or internal or public order of the Czech Republic. The Ministry of Industry and Trade may initiate a screening proceeding up to five years after the completion of the foreign direct investment, with the possibility of retroactively restricting or annulling the investment.

In order to avoid being subject to a subsequent mandatory clearance, a foreign investor may choose to apply to the Ministry of Industry and Trade for a **voluntary consultation** on the contemplated investment (mandatory consultation only applies to certain domestic companies in the media sector). The decision may be either that the foreign investor may proceed with the investment or that the investment must be examined in the screening proceedings.

CZECH REPUBLIC

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

Czech trademark law is based on and consistent with EU trademark law. The EU Trademark Directive has been fully implemented in the Czech Republic with no major deviations.

What is protectable? Any sign which is capable of distinguishing the goods and services of one person from those of another and which can be expressed in the Trademark Registry in a way which enables clear and precise determination of the object of the protection granted to the trademark owner.

Where to apply? Trademarks can be filed either with:

1. The Czech Industrial Property Office (Úřad průmyslového vlastnictví - ÚPV) in cases of national trademarks and of international trademark applications to the World Intellectual Property Organization (WIPO) under the Madrid System, which the Czech Republic is part of; or
2. the European Union Intellectual Property Office (EUIPO) for EU trademarks.

The application of a Czech trademark can be filed digitally via electronic databox submission, online via ÚPV user account, by post, or in person at the Industrial Property Office.

Duration of protection? The registration remains valid for a 10-year period and may be renewed repeatedly for additional periods of 10 years.

Costs? The administrative fee for applying for a Czech national trademark for three classes of goods and services is CZK 5,000 (approx. EUR 200). CZK 500 (approx. EUR 20) is charged for each additional class of goods and services.

Patents

What is protectable? Patents may be granted for inventions, which are novel, not obvious to a skilled professional, and can be applied in industry.

Where to apply? Patent applications can be filed with either:

1. The Czech Industrial Property Office (ÚPV) in cases of national patents and international patent applications under the Patent Cooperation Treaty (PCT) to the WIPO; or
2. the European Patent Office (EPO) in case of European patents.

The registration procedures before these offices slightly differ from each other, particularly as to costs. Patent protection is valid only per country, meaning that the applicant must register (or validate in case of European patents) the patent in each country where protection is sought. The registration procedures before these offices differ from each other, particularly as to costs.

Duration of protection? A patent may remain valid and offer protection for a maximum of 20 years from application and must be maintained by annual fees.

Unitary Patent and Unified Patent Court? (Jednotný patent a Jednotný patentový soud) The Czech Republic is party to the Unified Patent Court Agreement, however, it has not yet ratified it for its entry into effect. A unitary patent therefore currently does not offer protection in the Czech Republic and may not be enforced with effect here.

Costs? Administrative fees for applying for Czech patents for up to ten claims start at CZK 5,200 (approx. EUR 200), but the total fees vary depending on several other factors and may be higher. The patent holder must also pay gradually rising annual fees to keep the patent in effect.

INTELLECTUAL PROPERTY, CONT'D

Utility Models

What is protectable? Technical solutions, which are novel, extend beyond mere technical skill, and can be applied in industry. Although similar to patents, utility models are registered without an investigation of whether the technical solution is protectable, so long as the formal requirements of the application are met. A major difference and advantage is also the 6-month novelty grace period for own publications of the technical solution and the fact that a utility model may be granted within just a few months, whereas patent registration proceedings may last up to several years.

Where to apply? A Czech utility model may be applied for with the Czech Industrial Property Office (ÚPV).

Duration of protection? Once registered, a utility model offers protection for 4 years, which can be renewed twice by a period of 3 years each time. In contrast to patents, the maximum term of protection is only 10 years.

Costs? Administrative fees for applying for Czech utility models for up to ten claims start at CZK 500 (approx. EUR 20), but the total fees vary depending on several other factors and may be higher. The fees for each renewal amount to CZK 6,000 (approx. EUR 240).

Topographies of Semiconductor Products

What is protectable? A separate protection and related registry are recognized for topographies of semiconductor products, which are the result of the creative activity of their creator, and which are not common in the semiconductor industry. However, this form of protection is not commonly used in the Czech Republic with last application filed in 1993.

Designs

What is protectable? The visual appearance of products or their parts, such as their outlines, colours, shapes, structure, materials, or decorations.

Where to apply? Design applications can be filed with either:

1. The Czech Industrial Property Office (ÚPV) in cases of national designs.
2. The European Union Intellectual Property Office (EUIPO) to obtain protection throughout the EU in the form of an EU Design, which since 1 May 2025 has replaced the Community Design, as the EU design reform entered into effect. Through the EUIPO, Czech applicants can also file for international protection of their designs in the WIPO Hague System, although the Czech Republic is not a party to the Hague System itself.

Duration of protection? The term of protection is 5 years and can be renewed 5 times for another 5-year periods by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? The administrative fee for applying for designs is CZK 1,000 (approx. EUR 40) for a single design application. If renewed, the design holder must pay a rising renewal fee each 5 years.

Geographical Indications and Designations of Origin

What is protectable? Both Designation of Origin (označení původu) and Geographical Indication (zeměpisná označení) protect a certain territory that is used to designate goods originating in the territory, where the quality or other characteristics are attributable to that territory. In case of Designation of Origin, a stronger link to the area of origin is required. There is also an equivalent form of protection available at the EU level for food and wine products and from 16 November 2023 also for craft and industrial products (e.g., jewellery, glass, textiles). The national form of protection for the latter will cease to exist on 2 December 2026 unless the registrations are transferred to the EUIPO.

INTELLECTUAL PROPERTY, CONT'D

Domain Names

What is protectable? A previously unregistered name of a domain enabling the hosting of a website accessible to internet users.

Where to apply? Domain names under the Czech top-level domain (.cz) may be registered at CZ.NIC through a registrar.

Duration of protection? Domains are valid for 1 year and can be renewed annually.

Alternative dispute resolution? The cancelation or transfer of the .cz domain may be claimed before the Czech Arbitration Court (Rozhodčí soud při Hospodářské komoře České republiky a Agrární komoře České republiky), however a decision in the arbitration proceeding does not represent a res judicata. The Czech Arbitration Court is also one of the accredited forums for alternative dispute resolution over other domain names, including .eu and top-level domains such as .com.

The following IP rights cannot be registered but may be protected:

Copyright

What is protectable? Objectively perceivable expressions, which are unique results of an author's creative activity. This definition from the Czech Copyright Act is interpreted in accordance with the approach of Court of Justice of the EU, which affords protection to expressions of author's own intellectual creation. These include various literary, artistic, or scientific works, as well as computer programs (software). Copyright protection is granted immediately upon the creation of a work. No registration or posting copyright notices is required.

Duration of protection? The copyright protection (specifically the economic rights) last for the life of the author and 70 years after their death. However, even after that the works may not be used in any derogatory way.

Exploitation of copyright protected work? The author has exclusive:

- moral rights to the work, including the right to be named and the right of integrity to their work; and
- economic rights to the work, including the right to use the work (i.e., commercially exploit it).

Both moral and economic rights themselves may not be transferred by the author onto third persons. The authors may nevertheless transfer the exercise of their economic rights or issue exclusive or non-exclusive licenses enabling third persons use of the work. The author may also give consent for uses, which affect their moral rights.

Neighbouring/other rights? The Czech Copyright Act recognizes the rights of performing artists, phonogram producers, rights of audiovisual producers, rights of radio or television broadcasters, rights of publishers, and rights of press publishers. Each of these bears similarity with copyright protection, but typically differs in certain aspects, such as duration of protection and transferability.

Right to databases? Separately from copyright, the Copyright Act also offers protection to databases consisting of copyrighted works, data, or other materials, which are arranged in a systematic or methodical way and which are individually accessible. The right may be transferred by the database's creator onto third persons and lasts for a period of 15 years from its creation (or from each new qualitatively or quantitatively substantial contribution).

Trade Secrets

What is protectable? Information relating to a person's business, which is competitively significant, identifiable, can be priced, and which is not commonly available in the relevant business circles. To be protected, the secrecy of the information must be secured using appropriate measures by its owner.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies. This can be an advantage over registered rights, whose protection expires with time. A disadvantage is that a revelation of a trade secret thwarts its protection going forward.

DATA PROTECTION/PRIVACY

The GDPR applies in the Czech Republic since 25 May 2018. Effective from 24 April 2019, new Act No. 110/2019 Sb., on Processing of Personal Data implements some of the GDPR provisions. However, the Czech legislator has made rather limited use of the opening clauses of the GDPR.

There are several other national laws regulating privacy matters, in particular the **Electronic Communications Act** (Act No. 127/2005 Sb), which implements certain provisions of the EU ePrivacy Directive, and **Act on Certain Information Society Services** (Act No. 480/2004 Sb.), which also implements certain provisions of the EU ePrivacy Directive.

The relevant Czech specifics may be briefly summarized as follows:

- The age for a child's consent in relation to information society services has been lowered from 16 years to 15 years.
- When processing personal data for journalistic purposes or purposes of academic, artistic, or literary expression, the data controller can also fulfil its information obligations by informing the data subject about the identity of the controller in any appropriate way (for example graphically, orally, or in another appropriate way). Information about the data controller's identity is sufficient if the data controller's information about the data subject's rights and other information is publicly available in a way that enables remote access.
- Prior consent is required for setting cookies or using other tracking technologies unless they are (i) used for technical storage, (ii) used to access information for the sole purpose of transmission of a communication over an electronic communications network, or (iii) strictly necessary in order to provide an information society service explicitly requested by the end-user. This rule applies irrespective of whether personal data is processed or not.
- As a rule, electronic direct marketing to individuals is allowed with individual's prior consent. Consent for sending marketing communication is, however, not required if the data controller has received the contact information from its customer in connection with a previous transaction, the marketing communication concerns similar products or services offered by the same data controller, and the customer has been given the opportunity to opt-out (easily and free of charge) when contact information has been collected for this purpose and in each subsequent marketing communication.

The Czech Office for Personal Data Protection (Úřad pro ochranu osobních údajů) is the competent supervisory authority. In recent years, we have seen an increase in the amount and number of fines imposed. According to its 2026 control plan, the Office's enforcement priorities include debt registries (consumer creditworthiness databases) and commercial communications (particularly evaluation questionnaires sent as marketing). The Office also continues to focus on cookies and other tracking technologies, as well as sector-specific guidance on the use of CCTV, particularly in healthcare settings. The Office will also participate in a coordinated European enforcement action focused on compliance with transparency principle and information obligations under the GDPR.

CZECH REPUBLIC

ARTIFICIAL INTELLIGENCE

The **EU AI Act** regulation applies in the Czech Republic and is gradually entering into effect.

There is currently no specific general regulation of AI in the Czech Republic in force. A **draft of the Act on Artificial Intelligence** has been submitted by the Ministry of Industry and Trade and as of Q1 2026 is being discussed at the government level. The draft designates competent authorities, sets a legal basis for an AI sandbox, establishes administrative offenses, and implements other necessary provisions of the EU AI Act into the Czech legal system. The draft intends to be only a minimum implementation, aiming otherwise to keep a free environment for AI development in the Czech Republic.

Several amendments to specific laws however have been introduced:

- In August 2025, **amendment to the Act on Police of the Czech Republic** (Act No. 273/2008 Sb.) came into force which regulates use of AI for biometric identification at international airports for security purposes.
- In January 2026, **amendment of the Czech Criminal Code** (Act No. 40/2009 Sb.) has newly introduced Section 191a, criminalising the production and distribution of pornographic content depicting a person without their consent, primarily targeting the AI deepfakes.
- Also in January 2026, **amendment to the Road Traffic Act** (Act No. 361/2000 Sb.) came into force which enables and regulates the use of autonomous vehicles with SAE Level 3 automated driving systems on Czech roads.

In 2024, the Czech Republic adopted a new **National strategy on AI 2030**. It serves as a strategy outline for public policy on the Czech AI ecosystem. It maps out 7 core areas of AI development and use and contains an annualy updated action plan for fulfilling policy aims. Among others, the strategy deals with making financial support available for the further development of AI projects and the AI ecosystem in the Czech Republic.

In the Czech Republic, legal constraints on the use of AI generally follow the EU-wide discussion on personal data and copyright issues. This includes the applicability of **exceptions for text and data mining** in the context of training and using generative AI models. These exceptions are also covered by the Czech **Copyright Act**. Other copyright issues arise in relation to output material because copyright protection is unlikely to extend to material generated by AI. One court **decision by the Prague Municipal Court** has confirmed this so far.

EMPLOYEES/CONTRACTORS

Obligations Preceding the Employment Relationship

Before concluding an employment contract, the employer must inform the future employee of the rights and obligations arising from the employment contract, and their working and remuneration conditions. Job applicants must also undergo an occupational health examination administered by the employer and be instructed on occupational health and safety. The contract itself must specify the type of work, the place of performance of work and the work commencement date. It must be concluded in writing.

Mandatory Insurance

The employer is obliged to take out liability insurance against a potential bodily injury caused to the employee or damage arising in connection with an accident at work or occupational disease. It is the employer's responsibility to ensure that the conditions in the workplace meet the requirements of a safe and hygienic workplace.

EMPLOYEES/CONTRACTORS, CONT'D

Registration and Notification Obligations
The employer is obliged to register with several administrative authorities and must register themselves and their employees with the relevant tax office (finanční úřad), social security administration (okresní správa sociálního zabezpečení) and health insurance company (zdravotní pojišťovna). The obligation to register with the social security administration also applies to employers employing exclusively on the basis of agreements on work performed outside the employment relationship (see below). The employer is also obliged to make the payment of income tax or insurance premiums on behalf of their employees to these authorities monthly. Any changes to the information provided must be notified to the respective authority within the time limit laid down by law.

Work for Hire Regime
There is a work for hire regime in the Czech Republic. Unless the parties agree otherwise, the author's (employee's) property rights in the work shall be exercised by the employer in their own name and on their own account. However, the employee's moral rights as author shall remain unaffected.

Termination
Employees are highly protected and can only be terminated for reasons set out by law (e.g., for a breach of their duties, for redundancy or underperformance - subject to further conditions). The law protects some employees from termination altogether during the so-called protection period (e.g., during pregnancy or sick leave).

With an important amendment effective from June 2025, the statutory minimum notice period of 2 months has been reduced to a minimum of 1 month in cases of certain termination grounds (termination for unsatisfactory work performance and termination for breach of duties). The notice period also newly commences on the day of its delivery to the other party, replacing the previous rule of the notice period running from the first day of the following month and thereby reducing the overall length of the termination process.

Agreements on Work Performed Outside the Employment Relationship
As an alternative to the employment contract, employers and employees may conclude so-called agreements on work performed outside the employment relationship (dohody o pracích konaných mimo pracovní poměr), which provide more flexibility and reflect the need to perform work activities of a smaller scope that otherwise meet the characteristics of dependent work. These are the **agreement to complete a job** (dohoda o provedení práce) and the **agreement to perform work** (dohoda o pracovní činnosti), where the difference is mostly in the scope of work. Generally, similar rules apply to these agreements as to the traditional employment contract, with some exceptions (e.g., the limitations on termination stated above do not apply and the notice period is only 15 days).

Engaging Contractors
When engaging contractors, the contractual relationship must not be used to disguise an employment relationship. Such an approach is subject to administrative fines and the legal relationship established is considered as employment (i.e., the Labour Code's rules apply irrespective of the formal name of the contract).

CZECH REPUBLIC

CONSUMER PROTECTION

The Czech Republic has an overall high level of consumer protection, which largely draws from EU consumer protection laws. It is regulated across various laws, mainly the **Civil Code** (Act. No 89/2012 Sb.) and the **Consumer Protection Act** (Act No. 634/1992 Sb.).

The consumer protection applies to anyone who is acting outside of their business or freelance activity and is entering into contracts or otherwise dealing with an entrepreneur. Relevant rights and obligations include:

- The consumer's right to information regarding the product or service, including specific information in case of digital content or digital services, identity of the entrepreneur, terms of the sale, pricing and past discounts, and the consumer's rights with respect to their purchase;
- Consumer contracts must not contain provisions that are in significant disbalance against the consumer or deviate from statutory consumer protection provisions. Such provision would be void.
- The prohibition of unfair commercial practices and the consumer's right to withdraw from a contract within 90 days if it is subjected such practice.
- The consumer's right to withdraw from a contract concluded at a distance (e.g., online contracts) within 14 days without giving reason;
- The consumer's rights from defective performance and the entrepreneur's obligation to resolve the requests (e.g., by repairing the goods) within 30 days;
- The consumer's right to have their dispute resolved in alternative dispute resolution (ADR) proceedings.

The public body responsible for ADR proceedings is the **Czech Trade Inspection Authority** (Česká obchodní inspekce – ČOI). The ČOI is also responsible for public compliance oversight and may issue administrative sanctions if breach of consumer protection regulation is found.

As of 1 July 2024, class actions in consumer protection matters have been introduced in the Czech Republic. Groups of at least 10 consumers (or small businesses) affected by a common factual and legal basis may file a joint lawsuit. The group of persons must be represented in the proceedings by a non-profit organisation authorised by the Ministry of Industry and Trade or the European Commission. This organisation acts as the claimant in the proceedings. The class actions are based on the opt-in principle, which means that claimants must actively join the proceedings.

TERMS OF SERVICE

Commercial Terms

Generally, the contract may be supplemented by a reference to commercial terms if the terms are either attached to the offer or if they are known to the parties. Provisions of the terms which the other party could not have reasonably expected are not effective unless the other party have accepted them expressly.

Online Terms with Consumers

In case of online contracts with consumers, the general commercial terms (GCT) are binding if the consumer was either provided with the GCT prior to the execution of the contract and the contract includes a clear reference or if the consumer had an opportunity to read them and agreed with them (e.g., by a tick box). The consumer must be provided with the GCT in a text form, which is either on paper or other durable medium which allows the consumer to keep the terms and make copies (e.g., in PDF).

Prohibited Terms

The GCT and the contract with the consumer may not include any abusive terms, which include for example terms which would exclude the rights from defective performance or liability for damages, allowing the entrepreneur to change the rights and obligations or to withdraw from the contract for convenience without a corresponding right of the consumer, or imposing on the consumer a disproportionate sanction.

TAX/FUNDING

Taxation Overview

Czech start-ups are typically organised in the legal form of companies (corporations). Therefore, the following tax overview is limited to corporate tax.

Czech corporations are subject to a **corporate income tax** rate of 21%. Both tax resident and non-tax resident companies may be subject to this tax.

Companies constituting **Czech tax residents** are taxpayers who have their registered office or headquarters (place from which the taxpayer is managed) in the Czech Republic. A tax resident-company of the Czech Republic has a tax obligation that applies to both income derived from a source in the Czech Republic and income derived from sources abroad, subject to an applicable tax treaty limiting double taxation.

Companies constituting **Czech tax non-residents** are taxpayers who do not have their registered office or headquarters (place from which the taxpayer is managed) in the Czech Republic or if international treaties so provide. Tax non-residents have a tax obligation that applies only to income from sources within the Czech Republic. Therefore, Czech non-residents doing business in the Czech Republic will be subject to Czech income tax, such as in relation to income earned from carrying out business in the Czech Republic.

The **taxable income** is calculated from the accounting profits of the company. Instead of in CZK, the accounts of the company can be kept in EUR, GBP or USD, should the company primarily operate with such currency.

Corporate taxpayers are also subject to **tax advancements**. The amount of advancement will be based on the income tax amount for the previous fiscal period, and depending on the amount will be paid either semi-annually or for each quarter.

Under the conditions provided by respective Czech legislation, corporate taxpayers can also deduct their research and development **(R&D) expenses** from the taxable base twice, once as a normal expense and once as a special tax deduction.

Any company doing business in the Czech Republic with a turnover exceeding CZK 2,000,000 in the past calendar year is required to register for VAT purposes with the competent tax office. In the Czech Republic, the **VAT** rates are currently twofold, a standard rate of 21% and a reduced rate of 12%.

Companies may incur further tax obligations in the course of their business. Companies may be, in particular, obliged to collect and remit variety of **excise taxes** (such as tax on alcohol, tobacco products, mineral oil etc.) Companies may also be required to withhold taxes on payments of dividends, interest, and royalties. The general rate of **withholding tax** on payments of dividends is 15%, and 35% in case of dividends paid to residents of non-EU and non-EEA countries where the Czech Republic does not have a double taxation treaty or other tax agreement. In case of residents of countries where the Czech Republic has a double taxation treaty, it is necessary to verify the applicable rate in accordance which such treaty.

Funding

The Czech Republic provides a range of funding and incentive programs that may be available to both startups as well as established companies seeking to advance their development. Recent trends in subsidies focus on sustainable development, digital transformation, and innovation. The Czech government prioritizes investments in technology, renewable energy, and infrastructure to stimulate economic growth and enhance competitiveness. Moreover, there is an increasing emphasis on supporting R&D activities, particularly in strategic sectors such as artificial intelligence and quantum technologies.

The Czech Republic utilizes EU funding to support various initiatives. In the current programming period, from 2021 to 2027, applicants may draw funds, among others, from the **Operational Programme Technology and Applications for Competitiveness (OPTAK)** which aims to co-fund business projects in areas such as research, development and innovation, digital infrastructure, business development, smart and sustainable energy, and the circular economy. The information about the subsidies from the EU funds can be found at https://www.dotaceeu.cz/en/home-en. Further details about the OPTAK programme are available at https://www.optak.cz/ and https://mpo.gov.cz/cz/podnikani/dotace-a-podpora-podnikani/optak-2021-2027/.

TAX/FUNDING, CONT'D

Funding, cont'd

The Czech Republic actively collaborates at the cross-border level, specifically partnering with **Poland** (https://www.cz-pl.eu/) or **Saxony** (https://www.sn-cz2027.eu/de) on subsidy programmes. These programmes aim to engage small and medium-sized enterprises (SMEs) in R&D activities, as well as to enhance their growth and competitiveness.

The **Ministry of Industry and Trade** offers national R&D subsidies, which include the following programs:

- The **TWIST Programme**, which focuses on the development of strategic technologies such as artificial intelligence, quantum technologies, and microelectronics (https://mpo.gov.cz/cz/podnikani/podpora-vyzkumu--vyvoje/program-twist/program-twist--282314/);
- The **TREND Programme** (https://mpo.gov.cz/cz/podnikani/podpora-vyzkumu-a-vyvoje/program-trend/program-trend--275263/), aimed at enhancing the international competitiveness of companies by helping them expand their markets abroad, penetrate new markets, or advance within global value chains; and
- The **Country for the Future Programme**, which supports the implementation of innovations in SMEs (https://mpo.gov.cz/cz/podnikani/podpora-vyzkumu-a-vyvoje/podpora-inovaci-program-the-country-for-the-future/program-na-podporu-inovaci-the-country-for-the-future--275246/).

The **Technology Incubation project**, which is part of the Country for the Future Programme, offers start-ups not only direct financial support but also various forms of indirect assistance. This includes workshops, seminars, guidance from incubation managers, consultations with business and technology experts, and incubation lasting up to two years; more details are available at https://technologickainkubace.org/en/?_gl=1*15f0x8q*_up*MQ..*_ga*NzM2NjkxMDI2LjE3Mzk1NDUwMzE.*_ga_62YVJZYK3B*MTczOTU0NTAzMC4xLjEuMTczOTU0NTAzMy4wLjAuMA and https://mpo.gov.cz/cz/podnikani/podpora-vyzkumu-a-vyvoje/technologicka-inkubace-startupu/technologicka-inkubace--275257/.

Other similar programme available for start-ups is the **fintech sandbox** (https://fintechsandbox.cz/en/?_gl=1*q2mcck*_up*MQ..*_ga*MTQ0MTI1MjU4My4xNzM5NTQ1Mjc5*_ga_VMEMRB8ZXJ*MTczOTU0NTI3OS4xLjAuMTczOTU0NTI3OS4wLjAuMA).

Furthermore, the **Technology Agency of the Czech Republic** (https://tacr.gov.cz/en/) provides incentives focused mainly on research by companies and research organizations. The company or organization can receive the incentive if they are selected as a participant in one of the open calls.

In addition to grants, financial instruments such as **preferential loans, bank guarantees, and equity investments** are also available. For more information, please visit https://www.dotaceeu.cz/cs/evropske-fondy-v-cr/financni-nastroje.

WHAT ELSE?

Protection of Weaker Parties: Czech law and courts are rather strict in the protection given to weaker parties, in particular employees and consumers. Entrepreneurs should therefore be mindful of ensuring compliance with regulation in these areas when carrying out business in the Czech Republic.

Trade Licenses: Almost all businesses require a trade license to carry out business in the Czech Republic. Trade licenses are regulated by the **Czech Trade Act** (Act No. 455/1991 Sb.). It distinguishes between notifiable and permitted trades. The notifiable trades are further divided into vocational, professional, and unqualified trades. The unqualified trades are easy to acquire since no specific know-how must be proven before starting a business. Whereas regulated businesses must file for a vocational, professional, or permitted trade and prove their competence and qualification to act in a specific field, or even a positive statement from relevant government authority.



DENMARK

CONTRIBUTORS

DENMARK
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DENMARK

LEGAL FOUNDATIONS

Denmark is a civil law country, with only one national jurisdictional layer governing the whole country and no local state, provincial or other laws supplementing the national jurisdictional layer.

The Danish courts are organized in a three-tier system, with 24 local city courts covering the major cities as the default first venue, 2 high courts covering the east and west respectively as the court of appeal and a supreme court which only takes on principled cases.

CORPORATE STRUCTURES

Startups incorporating in Denmark would in almost all cases choose a private limited liability company ("Anpartsselskab" or abbreviated to "ApS"). The shareholders have no liability for the obligations of the ApS, it is uncomplicated to issue shares, warrants, options, and convertibles and it is a well-known corporate form.

An ApS has the lowest minimum share capital of DKK 20,000 (approximately EUR 7,700) vs a public limited liability company ("Aktieselskab" or abbreviated to "A/S"), which has a minimum share capital of DKK 400,000 (approximately EUR 53,800). The main differences between the two are that only an A/S can IPO and become publicly traded and that an A/S must have a board of directors, which is optional for an ApS. Most startups prefer the lower minimum share capital and flexibility of governance structure of an ApS, and can always convert into an A/S in case an IPO is being considered.

It is also possible to incorporate as a limited partnership ("Partnerselskab" or abbreviated to "P/S") with limited personal liability for the shareholders or an unlimited partnership ("Interessentskab" or abbreviated to "I/S"), but neither corporate form is well suited to take in investors and give employees equity, as the shareholders are liable for the obligations of the company (with a limited amount for each shareholder except for one unlimited partner, whose liability must be unlimited for a P/S), the shareholders are taxed directly on their share of the results of the entity and it would be very unusual for a startup to be a partnership.

It is very common to have a personal holding company holding the shares in the startup.

DENMARK

ENTERING THE COUNTRY

The Danish Foreign Direct Investment ("FDI") regulation of 2021 has introduced a mandatory approval process for screening prospective foreign direct investments into certain Danish companies.

The purpose of the FDI-regulation is to secure the Danish nation against foreign investments or activities which may have impact on sensitive areas of importance to the national security and public order. When a foreign investor acquires more than 10 % of the equity, or control though other means, of a Danish company acting within critical sectors, the investor must obtain prior approval before investing.

Particularly sensitive sectors and activities are generally limited to the following:

- Companies in the defence sector.
- Companies in the field of IT security functions or the processing of classified information.
- Companies that produce dual-use products
- Companies within critical technology other than those under nos. 1-3
- Companies and public authorities and institutions within critical infrastructure.

As the FDI-regulation is relatively new, only limited guidance for determining the Danish authorities' administration and practice is available. For more information, please refer to this link from the Danish Business Authority on the FDI scheme in Denmark Foreign investment - Activities covered by the Investment Screening Act | Business in Denmark (virk.dk)

Further, there are a number of regulated industries such as banking, payment services, healthcare, infrastructure, gambling, auditors, lawyers etc. with special rules and permits that need to complied with and obtained.

INTELLECTUAL PROPERTY

The following IP-rights can be registered:

Trademarks

What is protectable? Any sign, which is able to distinguish the goods and services from other companies, which is neither descriptive of the nature of the goods/services nor other characteristics of them, and which does not mislead consumers or violate the law, can be registered as a trademark.

Where to apply? Trademarks can be filed either with (i) the Danish Patent and Trademark Office, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application can be easily filed via the online platform on https://www.dkpto.dk/ansoeg-om-en-rettighed. The Danish Patent and Trademark Office then reviews the application and registers the trademark, if all minimum trademark requirements as mentioned above are met. The average case processing time is 6 weeks. With publication in the Danish Trademark Gazette, the three months period for filing complaints begins. Within this period third parties can easily and at low costs oppose the trademark.

Duration of protection? The trademark registration remains valid for 10 years from the date of registration if no complaints are filed. It can be renewed every 10 years by paying a fee.

Costs? The price for registering depends on how many countries it must apply to and how many product categories your trademark must be protected for. However, the basic price is around 2400 DKK (EUR 321).

DENMARK

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions that are novel, differs significantly from existing solutions and inventions in the field, and can be applied in industry, can be patented.

Where to apply? Patent applications can be filed with either the Danish Patent and Trademark Office, European Patent Office (EPO) or WIPO, and depends on which and how many countries the patent shall be valid in.

Duration of protection? Up to 20 years, but this requires renewal by paying a fee every year.

Costs? The costs for an application of a patent in Denmark are:

- Basic fee for application: DKK 3600 (EUR 482)
- Publication: DKK 2675 (EUR 358)
- An annual fee for every year the patent shall remain in force. The annual fee increases over time (for example, first three years DKK 1980 (EUR 265) and 20th year DKK 6830 (EUR 914).
- In addition, fees of legal and technical representatives apply.

Design

What is protectable? Designs, which is novel and has individual character, can be registered.

Where to apply? National designsmay be registered with the Danish Patent and Trademark Office. To obtain protection throughout the EU, registration can be made with the EUIPO. Via the EUIPO Danish applicants can also file for designs with the WIPO worldwide, as Denmark is party to the Hague System for registering international designs.

Duration of protection? Up to 25 years, if a renewal fee is paid every 5th year.

Costs? The costs for an application of a design in Denmark are:

- Basic fee for application: DKK 1440 (EUR 193)
- Renewal fee: DKK 2640 (EUR 353)

The following IP-rights cannot be registered:

Copyright

What is protectable? Expressions of the intellectual creation of an author are protectable under the Danish Copyright Act (e.g., literary and artistic works). Copyright protection is granted at the creation of the work. Therefore, no registration and no label are required.

Duration of protection? Copyright protection ends 70 years after the author has passed away.

Trade secrets

What is protected? Trade secrets include any business information that has commercial value derived from its secrecy. The information must not be generally known or direct available, the information must have commercial value because of its secrecy, and the information must have been subject to reasonable measures by the business to maintain secrecy. In Denmark trade secrets are protected under the Danish Trade Secrets Act against illegal acquisition, use and disclosure. Trade secrets are also protected outside the law, e.g., in the employment a duty of loyalty applies (even if it does not appear in the contract of employment and also in the employee's spare time) requiring employees to be loyal to their employer and workplace. Disclosure of trade secrets is a disloyal act, which gives the employer a right to compensation from the employee as well as the right to dismiss them. The duty of loyalty also applies after retirement.

Duration of protection? Trade secrets protection can last as long as the information actually remains a secret.

How to keep trade secrets secret? Following methods can be used to protect trade secrets: Get cooperators to sign a non-disclosure agreement, insert confidentiality clausesin employment agreements, introduce encrypting of any valuable business information, use passwords to protect valuable business information, and store valuable business information secure locations.

DATA PROTECTION/PRIVACY

The GDPR (Regulation (EU) 2016/679) entered into force on 24 May 2016 and applies since 25 May 2018, also in Denmark. At the same time, the following Danish acts were enacted to implement the parts of GDPR that were left to the Member States:

- The Data Protection Act (Act No. 502 of 23 May 2018)
- The Danish Law Enforcement Act (Act No. 410 of 27 April 2017 as amended by Act No. 503 of 23 May 2018 and Act No. 506 of 23 May 2018)

The Danish acts include few variations from GDPR, some of the most significant ones being:

- The Data Protection Act and the GDPR also applies to deceased individuals for a period of ten years after their death.
- The Data Protection Act does not apply where it is contrary to Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms or Article 11 of the EU Charter on Fundamental Rights.
- The Data Protection Act does not apply to the processing of data performed by intelligence services as a part of the parliamentary work (Folketinget) or to the processing of data covered by the Act on information databases operated by the mass media.
- Section 12 of the Data Protection Act governs the processing of personal data in an employment context with a special mention made to the widely used collective agreements in Denmark, but also establishing consent given by the data subject in accordance with Article 7 of the GDPR as a valid legal basis for processing.

The Data Protection Act also extends the scope of the GDPR to credit agencies. Other than this, no special variations of the legal basis for processing are implemented.

The Danish Data Protection Agency (Datatilsynet) is the authority in relation to data protection, overseeing all types of processing relating to the GDPR and the abovementioned acts. The agency also advises, handles complaints and carries out inspections. Most notably, the agency imposed a ban on the use of Google Workspace in Elsinore municipality in 2022.

The Danish Data Protection Agency has issued a list regarding the processing operations subject to the requirement of a data protection impact assessment, cf. Article 35 (4) GDPR. In some cases, this list must be presented to the Agency before the processing may be commenced.

The Agency has published several guidelines on compliance with the rules, mostly in Danish, but also in English, including guidance on the use of cloud services, standard contractual clauses setting out the rights and obligations of the data controller and the data processor to ensure compliance with Article 28(3) of the GDPR, a template for joint data responsibility agreements, and accreditation requirements for GDPR code of conduct monitoring bodies and certification bodies.

A legislative proposal on the development and use of AI systems in connection with the processing of personal data in the public administration has been circulated for consultation, with a consultation deadline of 2 March 2026. This proposal is intended to provide a clear statutory legal basis for such processing where existing sector specific legislation does not sufficiently meet the requirements for a national legal basis under the GDPR.

DENMARK

ARTIFICIAL INTELLIGENCE

The AI-Act (Regulation (EU) 2024/1689) formally entered into force on the 1 August 2024 and the obligations will gradually enter into application, also in Denmark. The Regulation is generally applicable from the 2 august 2026, with certain extended transition periods for specific categories.

The AI-Act requires Member States to introduce supplementary legislation to designate competent authorities responsible for carrying out the regulatory oversight. Likewise, Member States must also establish national sanction provisions and enforcement measures for violations of the regulation. In Denmark, this is implemented through a Danish supplementary framework for supervision and enforcement of the Regulation.

As part of preparation for the full applicability of the Regulation, legislative proposal No L 111, Proposal for an Act on supplementary provisions to the Regulation on artificial intelligence (the Danish AI Act), proposes a consolidated Danish supplementary framework that repeals the current Act No 467 of 14th may 2025 on supplementary provisions to the Regulation on artificial intelligence.

The purpose of the Proposal is to introduce supplementary rules for supervision of the Regulation as a whole, including supervision of prohibited AI-practices, high risk AI-systems and transparency obligations, as well as supplementary competence and penal provisions. The Proposal is expected to be considered by the Danish Parliament in spring 2026 (with first reading scheduled for 17 March 2026).

Under the Proposal, the Agency for Digital Government (Digitaliseringsstyrelsen), the Danish Data Protection Agency (Datatilsynet) and the Danish Court Administration (Domstolsstyrelsen) are designated as national competent authorities within the meaning of Article 70 of the Regulation.

The Agency for Digital Government (Digitaliseringsstyrelsen) is designated as the empowering authority and central contact point, and as market surveillance authority for the parts of the prohibition regime covering Article 5(1)(a) to (c) and Article 5(1)(e) to (f).

The Danish Data Protection Agency (Datatilsynet) is designated as market surveillance authority for the parts covering Article 5(1)(d) and Article 5(1)(g).

The Danish Court Administration (Domstolsstyrelsen), it is also designated as the supervisory authority for the courts' administrative use of AI-systems where courts do not act in their capacity as courts.

Denmark's opt out under Protocol No 22 affects certain provisions where they relate to personal data processing in the context of police cooperation and judicial cooperation in criminal matters. The legislative materials for the Proposal refer to recital 41 of the Regulation and specify, inter alia, that Denmark is not bound by Article 5(1)(g) to the extent it applies in those contexts, and Article 5(1)(d) to the extent it applies to uses covered by that provision in those contexts. Consequently, Danish enforcement presupposes that the relevant conduct falls outside the scope of the opt out.

The Proposal set out penal provisions in Section 17. Breaches of Article 5 of the Regulation on prohibited AI practices are punishable by a fine.. Both natural persons and legal entities can be penalized. Public authorities cannot be penalized for violations of AI rules committed in the course of exercising authority. In such cases, only personal criminal liability for the responsible individuals may be considered.

Besides the AI-act, there are national laws that presuppose the use of digital solutions, including AI-solutions, in certain public sectors, such as the public health sector.

ARTIFICIAL INTELLIGENCE, CONT'D

Furthermore, the general restrictions under data protection and copyright law apply to the use of generative AI:

- The principles of data protection law, in particular Art 22 GDPR for automated individual decision-making, must be observed in relation to the development, testing and operation of AI. The use of AI must not lead to any legal or similarly serious effects to the data subjects without any human intervention. An automated decision-making process is for example assumed if a company uses results of an AI-application without any further quality-check and assessment.
- National copyright restrictions are particularly relevant to the training of AI-models because of the required use of copyrighted material for the purpose of training the AI-model to produce new creations (text and datamining). According to the Danish copyright act, text and datamining is only legal under the condition that there exists a legal access to the copyrighted material and that the copyright owner has not explicitly reserved the right to use the material in an appropriate manner.

Several Danish national authorities have published legal guidances regarding the use of generative AI. These include:

- The Danish Agency for Digital Government has published guidances tailored to both public authorities and private corporations. These guidances provide inspiration for what to consider when deciding which types of generative AI tool are relevant for the organization, how to compose internal guidelines for the organization's use of generative AI, and how to support responsible use through organization frameworks.
- The Danish Data Protection Agency has published a guidance tailored to public authorities. The guidance explains the basic considerations that public authorities should be aware of before they start developing AI solutions. These include fundamental data protection principles such as lawfulness of processing, transparency and data protection impact assessments.
- Local Government Denmark (KL) has published a guidance tailored to municipalities. The guidance provides general guidelines about the use of publicly available services with generative AI such as ChatGPT.

The AI-Act will be relevant in many aspects of the use of AI and will apply parallel with GDPR. Furthermore, I should be noted that the public and administrative laws, human rights law as well as specific sector legislation in Denmark apply to AI- solutions depending on the sector in which the AI-solution will be used, e.g., health care, employment, finance etc.

SECURITY AND CYBERSECURITY

Denmark has implemented Directive (EU) 2022/2555 (the NIS2 Directive) through Act no. 434 of 06/05/2025 on measures to ensure a high level of cybersecurity (the NIS2 Act), which entered into force on 1 July 2025.

The NIS2 Act applies to certain public and private entities operating within the sectors listed in the Act's annexes and distinguishes between essential entities and important entities. Applicability is determined primarily by sector and size, subject to statutory exemptions and special classification rules.

Key obligations for covered entities include implementation of appropriate and proportionate technical and organisational measures for cybersecurity risk management, incident handling and business continuity, incident reporting within statutory deadlines, and registration and supervision by the relevant competent authority, including orders and enforcement measures.

For companies NIS2 is typically relevant where the business operates within covered sectors or where the company is part of supply chains to covered entities and is contractually required to comply with NIS2 aligned cybersecurity controls.

SECURITY AND CYBERSECURITY, CONT'D

Related security regimes that may also be relevant for startups, depending on product and sector, include:

- Regulation (EU) 2024/2847 (Cyber Resilience Act) sets horizontal cybersecurity requirements for products with digital elements placed on the EU market. It entered into force on 10 December 2024, with main obligations applying later under the Regulation's transitional timeline.
- Regulation (EU) 2022/2554 (DORA) has applied since 17 January 2025. It imposes ICT risk management, incident reporting, resilience testing and third party risk requirements on financial entities, and it may indirectly affect ICT suppliers through customer driven contractual and assurance requirements.
- Denmark has implemented Directive (EU) 2022/2557 (CER) through Act No 433 of 6 May 2025, which entered into force on 1 July 2025. The CER regime operates alongside NIS2 for identified critical entities and may be relevant for suppliers into critical sectors.

EMPLOYEES/CONTRACTORS

Employees

Generally, the Danish mandatory rules covering employees are less burdensome and strict than in many other countries as the Danish "flexicurity" system lets employees and companies terminate the employment relationship with relatively little risk and bureaucracy, which in turn leads to a more dynamic job market where employers are more willing to hire new employees as the downside is relatively limited.

The Danish Salaried Employees act primarily protects the employees with more than 1 year seniority against unjustified dismissal (with normal penalties for breach in the range of 1-3 months worth of salary, but with up to 12 months if the dismissal was the result of discrimination as per Danish Non-Discrimination Laws). In addition, other regulation entitles the employee to e.g. maternity/paternity leave, paid vacation and other benefits.

IPR generated by an employee in connection with their work for an employer is by default assigned to the employer without further compensation or documentation needed.

Employees can only be subject to non-compete clauses in specific circumstances where the employee has a special position justifying the non-compete, the employee is provided with some specific information in writing, and where the employee is being paid both a lumpsum compensation for the non-compete clause (irrespective of whether the non-compete is waived by the employer in connection with the employment terminating). The compensation is either 40 % or 60% (depending on the length of the obligation) of the employees' normal monthly salary in the time period where the non-compete is in force. The non-compete may not be longer than 12 months if only a non-compete is enforced (if on combination with a non-solicit clause, then maximum is 6 months). Non-solicitation of customer clauses is regulated by the same set of rules as non-compete, however, with minor variations. Usually startups choose to not have non-competes/non-solicitation of customer clauses when realizing how complicated the rules are and that there is mandatory compensation to the employee, including a lump-sum payment which is payable even if the employer waives the non-compete/non-solicitation of customer clauses.

DENMARK

EMPLOYEES/CONTRACTORS

Contractors

Contractors are not subject to any specific regulation in Denmark, so the parties are free to agree to the terms that can be negotiated with respect to salary, termination notice, place of work, non-compete, transfer of IPR etc.

The main things to be aware of when hiring contractors in Denmark is (i) be sure to have the generated IPR properly transferred to the company and (ii) limit the risk of the contractor being reclassified as an employee due to the nature of the relationship between company and contractor, with the risk of not being able to enforce non-compete, short termination notice and having to pay the contractor various employee benefits.

Working environment

The Danish regulation on working environment in the workplace is typically as strict as or stricter than rules in other EU countries. It is the company's responsibility as an employer to ensure compliance with the working environment rules and to ensure that the employees can carry out their tasks without compromising health and safety in the workplace e.g. by giving them the necessary instructions. Find more information on the Working Environment Authority's webpage for foreign service providers; Workplace Denmark.

The WEA has a priority focus on five key areas within working environment:

- Preventing accidents
- Preventing muscle and skeleton problems
- Psychological working environment
- Chemical safety
- Social dumping

CONSUMER PROTECTION

Consumer purchases are governed by special rules in Denmark. Purchases are in scope when the trader is acting for business-related purposes within the trader's profession, while the customer (consumer) is not. Foreign entities are considered to market themselves to Danish customers, inter alia, when the price of the product is indicated in Danish krone (DKK).

The Danish Consumer Contracts Act (Act No. 1457 of 17 December 2013) builds on the Consumer Rights Directive and regulates the information that the consumer must have before and after a sale, including the trader's identity, contact information, terms and conditions, special withdrawal forms and arrangements for handling complaints.

The Danish Sale of Goods Act (Act No. 237 of 28 March 2003) (which corresponds to the Consumer Sales Directive) stipulates a two-year legal warranty for consumers, meaning the consumer has a right to complain about faulty goods for a period of two years, regardless of whether the product was sold online or in a physical store. The protection is mandatory, as most consumer-protective laws in Denmark. Special rules apply to digital content/services, including products received on an ongoing basis, e.g., on a subscription basis.

The Sale of Goods Act governs the concepts of defects, burden of proof, withdrawal and guarantee. Most notably, consumers have a general right of withdrawal for 14 days when an item is sold online or by telephone, meaning that the consumer can withdraw from the contract, without specifying any reasons.

CONSUMER PROTECTION, CONT'D

If a foreign entity establishes in Denmark, the consumer has a right to receive a guarantee in writing, according to the Danish Marketing Practices Act (Act No. 427 of 25 April 2017).

The relevant authorities, in relation to most consumer protection laws, are located within The Ministry of Industry, Business and Financial Affairs, including the Danish Competition and Consumer Authority and the Danish Consumer Board of Appeal. The Ombudsman, however, is an independent authority with the power to bring civil and criminal actions on behalf of complainants and to request the police to initiate investigation and prosecution. The Ombudsman has issued several guidelines in English, including on marketing and advertising, distance selling and publication of user reviews.

Consumer protective legislation is enforced in several other areas, such as financial services, acquisition of property, credit agreements and payment services.

TERMS OF SERVICE

There isn't a single law that determines how Terms of Service or other contracts should be drafted. Danish law operates with a principle of freedom of agreement, as long as it does not contravene with mandatory legislation (including special rules on consumer protection).

However, there is different requirements for the content of the Terms of Service in the Danish Consumer Contracts Act, the E-commerce Act, the Danish Marketing Practices Act, the Contracts Act and the Danish Sale of Goods Act. As regards contracts the area is largely based on practice, but inspiration can also be found in various standard contracts as for example K02-K04 and D17 in the IT industry.

Terms of Services are generally enforceable in Denmark. In relation to consumers relevant consumer protection laws also apply.

Particularly the following clauses in terms and conditions or other contracts are usually held invalid or changed:

- Certain exemptions of liability
- Huge Agreed penalties linked to non-competition clauses and non-solicitation clauses
- Clauses that cause a significant imbalance in the rights and obligations of the parties to the detriment ofthe consumer
- Any other unreasonable clause or clause at variance with the principles of good faith to enforce it

DENMARK

TAX/FUNDING

There are a lot of things to keep track of when you start up a business in Denmark. The Danish Tax Agency has made some videos specifically to ensure a good start, which is to be found here. Below you will find an excerpt of important points of attention as well as relevant links and guides.

Business Structure

In Denmark, all business structures have specific characteristics, advantages, and obligations. It is important to determine which type of business suits you best, such as a sole proprietorship or a private limited company, before registering your business and obtaining a CVR number.

Formal Establishment of Your Business

You register your business at virk.dk (Danish). You only formally have a business once you have registered it on Virk and have obtained a digital mailbox and NemKonto for your business.

NemKonto, MitID, and Digital Post

As a business owner, you need to use MitID and have a NemKonto. You are also obliged to receive and read Digital Post from public authorities. Your business should have its own NemKonto linked to its CVR number, so you can keep your private and business finances separate. However, you may also use your existing private NemKonto as your business NemKonto. A NemKonto is an ordinary bank account for money transfers from the public sector to your business, such as VAT refunds. You set up a NemKonto with your bank. Read more at www.nemkonto.dk.

Tax and VAT

The requirements regarding tax, VAT, and accounting will depend on your business structure. The Danish Tax Agency has produced a series of videos to help you understand what you need to know to get off to a good start. You will find the videos here.

Loans via the Danish Growth Fund

You can apply for a guarantee which is a loan guarantee that you apply for in your bank when it grants you a loan to start your business. The Danish Growth Fund is special as it offers loans to businesses that involve a certain degree of risk.

Guidance to newly established businesses from the Danish Tax Agency

- Free webinars in Danish to newly established sole proprietorships.
- Book a guidance meeting with the Danish Tax Agency

Help for new businesses (in Danish):

- You can consult www.startvaekst.virk.dk (in Danish) free of charge.
- Employing staff (www.virk.dk)
- Starting a new business (www.virk.dk)
- Digital filing (www.virk.dk)
- Legislative package to counter moonlighting (in Danish)

WHAT ELSE?

Branch in Denmark

A foreign company is obliged to register or establish a branch in Denmark if the company wants to carry out its business directly in Denmark, cf. the Danish Companies Act (Act No. 1952 of 11 October 2021) section 349. The branch may not conduct any business until registered. The following activities does not require a foreign entity to register in Denmark or establish a branch (the list is not exhaustive):

- Taking orders, where invoicing etc. is performed in the home country
- One-off contracts or other activities of limited duration in relation to a single contract partner
- Administrative work concerning entry (market analysis and preparation)

Initially, it is up to the foreign entity itself to assess whether a branch needs to be set up. The following factors are indicators of the need for registration:

- Large-scale activities
- Activities from an address in Denmark
- Invoicing from an address in Denmark
- Complaints are to be directed at an address in Denmark

The Danish Government funds an initiative called Start-up Denmark for innovative and scalable businesses with a clear growth potential, which provides a gateway for foreign entrepreneurs (non-EU/EEA resident) wishing to establish in Denmark. The program includes a startup visa scheme (work and residence permits) and free access to guidance from public business experts. The program does not provide funding, but startups based in Denmark can apply for a range of public and private funding schemes.

Public Procurement

All public entities, including independent public enterprises, are obligated to adhere to the relevant rules on public procurement. The Public Procurement Act (Act No. 1564 of 15 December 2015 as amended) implements the Procurement Directive and regulates the conclusion of public contracts above certain thresholds. The thresholds can be found on the Danish Competition and Consumer Authority's webpage. The Tender Act (Act No. 1410 of 7 December 2007 as amended) regulates the awarding of public works contracts below the threshold.

The Danish Complaints Board deals with complaints, in accordance with the Act on the complaints board (Act No. 593 of 2 June 2016 as amended). In addition to the abovementioned acts, several consolidation acts are in place to implement the Utilities Directive, the Concession Directive and the Defense and Safety Directive.



ECUADOR

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ECUADOR

LEGAL FOUNDATIONS

Ecuador operates under a legal system primarily based on civil law principles, influenced by the Napoleonic Code, deriving from the Spanish colonial era. In a civil law system, statutes and regulations form the backbone of legal provisions, are enacted by the legislature or other governing bodies authorized by each country's constitution.

One of the fundamental pillars of the Ecuadorian legal system is the Civil Code (Código Civil), governing civil relationships and obligations, including contracts, property, family law, and inheritance. Additionally, specialized codes and laws regulate specific areas such as labor, commercial transactions, and administrative procedures.

Jurisdiction in Ecuador is divided among various judicial bodies, comprising ordinary and specialized courts, each playing a distinct role in the administration of justice.

- **Ordinary Courts:** Ordinary courts in Ecuador are categorized by subject and geographical jurisdiction (covering areas such as civil, criminal, family, and traffic matters. These courts serve as the first instance in the judicial system, handling most legal disputes.
- **Provincial Courts:** Provincial Courts function as intermediate appellate courts within Ecuador's provinces, overseeing appeals from Ordinary Courts in their respective jurisdictions. They play a vital role in ensuring access to justice and promoting consistency in the interpretation and application of laws at a "second level.".
- **National Court:** The National Court of Justice handles extraordinary appeals and has jurisdiction over significant legal matters, including cases involving high-ranking public officials. It ensures the uniform application of national laws and provides final rulings on cassation appeals.
- **Constitutional Court:** The Constitutional Court of Ecuador serves as the highest body for constitutional control, interpretation, and enforcement. Its primary functions include reviewing the constitutionality of laws, regulations, and public acts; safeguarding fundamental rights; and resolving constitutional disputes between public institutions. The Court also adjudicates actions of unconstitutionality, constitutional complaints, and disputes regarding the constitutionality of international treaties. Its decisions are binding on all authorities and individuals within Ecuador, ensuring the supremacy of the Constitution.

On the other hand, Alternative dispute resolution (ADR) mechanisms play an increasingly important role in Ecuador's legal system. These out-of-court procedures aim to resolve disputes in a more flexible, cost-effective and expedient manner compared to formal court litigation.

The most commonly used ADR methods in Ecuador are mediation and arbitration. The increasing caseloads in courts coupled with lengthy delays provide a major impetus to develop efficient ADR mechanisms that can enhance access to justice.

Overall, Ecuador's jurisdictional framework is designed to ensure access to justice and effective resolution of disputes through a tiered system of courts with varying levels of authority and specialization. Each level of the judiciary plays a crucial role in upholding the rule of law and safeguarding the rights of individuals within Ecuadorian society.

ECUADOR

CORPORATE STRUCTURES

Under Ecuadorian law, the three most relevant corporate vehicles for start-ups are: (i) the Simplified Joint Stock Company (S.A.S.), (ii) the Corporation (Sociedad Anónima – S.A.), and (iii) the Limited Liability Company (Compañía de Responsabilidad Limitada – Cía. Ltda.).

Pursuant to the Ecuadorian Companies Law, these three entities share certain fundamental characteristics as capital companies. All may be incorporated by contract or by unilateral act, thereby allowing the existence of single-member companies. In each case, the company acquires legal personality upon registration with the competent authority (either the Mercantile Registry or the Superintendence of Companies, as applicable).

In all three corporate forms, the liability of shareholders or partners is limited to the amount of their respective contributions, without prejudice to the potential application of the corporate veil doctrine in cases of abuse of legal personality.

Additionally, ownership interests are nominative in nature and the capital is represented either by shares (S.A.S. and S.A.) or by participations (Cía. Ltda.).

All of the above corporate forms are subject to supervision by the Superintendence of Companies and must comply with ongoing corporate obligations, including the filing of annual financial statements and beneficial ownership disclosures, as required under Ecuadorian law.

Notwithstanding these common features, each corporate structure presents specific legal and operational characteristics. From a governance perspective, the S.A. operates under a more prescriptive statutory framework, the S.A.S. provides enhanced contractual autonomy, and the Cía. Ltda. reflects a statutorily closed ownership structure. The following sections set out the principal details, advantages, and structural limitations of each vehicle.

Simplified Joint Stock Companies (Sociedades por Acciones Simplificadas)

The Simplified Joint Stock Company (S.A.S.) is the most recent corporate form incorporated into the Ecuadorian Companies Law. It was introduced to modernize the corporate framework and provide a more flexible and cost-efficient vehicle compared to traditional entities.

CORPORATE STRUCTURES, CONT'D

Simplified Joint Stock Companies (Sociedades por Acciones Simplificadas), CONT'D

ADVANTAGES

- High contractual flexibility: The bylaws may freely regulate governance structures, decision-making mechanisms, share classes, economic and political rights, transfer restrictions, and shareholder arrangements, subject only to mandatory legal provisions
- Exclusive registration before the Superintendence of Companies: Incorporation and subsequent corporate acts are registered directly before the Superintendence, avoiding Mercantile Registry filings and associated registration fees.
- Express absence of minimum capital requirement under the Companies Law.
- Flexible capital subscription and payment rules: Capital contributions may be structured in the bylaws with flexible payment conditions, subject to a maximum statutory payment term. Although there is no statutory minimum capital, in practice it must be at least USD 1, and it is advisable to align the initial capital with the amount required by banks for account opening.
- No statutory limit on the number of shareholders.

DISADVANTAGES

- Not eligible for public offering or stock exchange listing: SAS shares cannot be publicly offered or listed in the public securities market.
- Certain regulated activities may require incorporation under a different corporate form pursuant to special legislation.

Corporations (Compañías or Sociedades Anónimas)

The Corporation (Sociedad Anónima – S.A.) is a traditional capital company regulated in detail under the Ecuadorian Companies Law.

Unlike the S.A.S., the S.A. must be incorporated by public deed and registered with the Mercantile Registry of its principal domicile. Corporate acts subject to registration must likewise be filed with the Mercantile Registry.

ADVANTAGES

- Capital divided into negotiable shares, facilitating equity transfers and investment structuring.
- No statutory maximum number of shareholders.
- Recognized corporate vehicle for activities that require a specific legal form under special legislation.

DISADVANTAGES

- Mandatory public deed and Mercantile Registry registration, increasing procedural formalities, processing time, and notarial and registry costs.
- More structured and prescriptive statutory regime, as the Companies Law establishes detailed mandatory provisions governing shareholders' meetings, administration, and corporate governance.

CORPORATE STRUCTURES, CONT'D

Limited Liability Companies (Compañías de Responsabilidad Limitada)

The Limited Liability Company (Compañía de Responsabilidad Limitada – Cía. Ltda.) is a closely held capital company regulated under the Ecuadorian Companies Law.

Like the S.A., its incorporation and corporate acts subject to registration must be filed with the Mercantile Registry of its principal domicile.

ADVANTAGES

- Closed ownership structure established by law, as participations are not freely negotiable.
- Transfers to third parties require unanimous consent of the entire share capital.
- Participations may be transferred among existing partner, subject to statutory rules.

DISADVANTAGES

- Maximum of fifteen (15) partners, as expressly provided by the Companies Law (may be an advantage in some cases).
- Admission of new partners requires unanimous approval of the capital.
- Statutory prohibition from engaging in banking, insurance, capitalization, or savings activities, as expressly provided under the Companies Law.

If any of these companies have foreign shareholders, they must provide the following documentation:

1. Certificate of legal existence of the foreign entity.
2. Certified list of its members or shareholders.
3. Disclosure of the ownership chain until the ultimate beneficial owner (natural person) is identified, where applicable.
4. If the foreign shareholder is a publicly listed entity or an investment fund, the shareholders' list may be replaced by a sworn declaration or official certification issued by the competent authority in its jurisdiction of incorporation.

Foreign corporate documents must be duly apostilled or, alternatively, legalized by the Ecuadorian Consul in the country of issuance.

Additionally, a local legal representative must be appointed. If the legal representative is a foreign national, he or she must hold the appropriate immigration status in Ecuador in order to exercise the position.

Financial, stock market, and insurance companies must incorporate and amend their bylaws by public deed, as required by special legislation.

If real estate assets are contributed to the share capital of any company, the incorporation or corresponding corporate act must be formalized by public deed, in accordance with Ecuadorian civil law requirements governing the transfer of immovable property. Such deed must be registered with the competent Property Registry for the transfer to be effective against third parties. Contributions in kind must be susceptible to economic valuation and comply with the legal formalities applicable to the specific type of asset being transferred.

ECUADOR

ENTERING THE COUNTRY

Foreign investors looking to invest in Ecuador should be aware of several rules and restrictions related to taxation and foreign exchange transactions:

- General Income Tax Regime: Companies established in Ecuador, as well as branches of foreign companies domiciled in the country and permanent establishments of non-domiciled foreign companies, are subject to a 25% tax rate on their taxable income. There are also specific regimes, such as the RIMPE regime for individuals and companies with annual gross income up to $300,000, which have different tax rules and exemptions.
- Special Regimes: Certain industries or activities, like sports betting operators, have their own unique tax rules. For example, sports betting operators are subject to a 15% tax rate on their total income.
- Exemptions and Tax Benefits: There are various exemptions and tax benefits available, such as exemptions for dividends and profits distributed by resident or non-resident companies in Ecuador to other national companies, or for income generated from the occasional sale of real estate by individuals for residential purposes.
- Deductions: Businesses can benefit from deductions, such as 150% deductibility for sponsoring artistic and cultural proposals or 100% deduction for expenses on private medical insurance and/or prepaid medicine for their employees.
- Value Added Tax (VAT): VAT applies to the transfer of ownership or the import of tangible personal property, with a general rate of 15%. However, certain products and services are zero-rated, including most food products, medicines, and health services.
- Foreign Exchange Exit Tax: A tax applies to the transfer of foreign exchange abroad, with the current rate at 5%. There are exemptions for specific payments made abroad, such as for the amortization of credits or dividends distributed by certain companies. Specific rates apply to the importation of certain goods, including raw materials. Some may benefit from reduced rates or exemptions, depending on their classification and use in production.

Foreign investors should carefully review these rules and restrictions to ensure compliance and to optimize their investment strategy in Ecuador.

INTELLECTUAL PROPERTY

Ecuador has a well-developed Intellectual Property IP law that safeguards trademarks, patents, copyrights, trade secrets, and industrial designs through the National Intellectual Rights Service (SENADI). The regulatory framework governing these matters is established by the Organic Code of the Social Economy of Knowledge, Science, Technology, and Innovation (COESCCI), which sets out the key principles and guidelines for the protection of IP rights in the country. Despite facing specific challenges, Ecuador ensures compliance with regional and global standards, primarily in alignment with the Andean Community.

Industrial Property rights are divided into two categories: industrial property and copyright. Industrial Property covers patents for inventions, utility models, and designs under invention rights, along with trademarks, which include commercial slogans, trade names, distinctive signs, geographical indications, and plant varieties. Copyright law, on the other hand, focuses on the protection of artistic creations, ensuring that these works are marketed exclusively by their creators, even at their initial stages.

A convenient and cost-effective solution for registering and managing trademarks worldwide is the Madrid System. However, Ecuador a participant in this system.

INTELLECTUAL PROPERTY, CONT'D

Distinctive Signs

What is protected? The legal framework in Ecuador defines trademarks and distinctive signs as any mark capable of distinguishing products or services in the market and that can be graphically represented. These signs may include words, images, symbols, logos, sounds, smells, and colors defined by shape. There are six classifications for distinctive signs and trademarks: certification marks, collective marks, three-dimensional marks, trade names, commercial slogans, and geographical indications. Each category applies to different products or services.

Where to apply? Trademark registration in the National Service of Intellectual Rights (SENADI) grants several benefits and rights to the holder, including exclusive use of the sign, the right to prevent unauthorized use, nationwide protection, and priority in Andean Community countries. It also allows the trademark holder to restrict the importation of goods with similar marks, grant licenses, charge royalties, franchise the products or services, and assign the mark's rights to third parties.

Duration of protection? A trademark registered in Ecuador is protected for an initial period of 10 years, with the option to renew indefinitely times.

Cost? The application fee for registering a trademark in Ecuador is USD $208.

Invention Patents, Utility Models, And Industrial Designs

What is protectable? A patent protects new, original, and industrially useful inventions. Utility models refer to new forms, designs, or arrangements of parts of an object that improve its performance, use, or manufacture, providing technical advantages that it did not have before. Registering a utility model must be new, innovative, and have industrial applications. Industrial designs protect the appearance of a product, including its shape, color, and textures, provided these elements do not alter its utility.

Where to apply? Invention patents, utility models, and industrial designs are registered in the National Service of Intellectual Rights Services (SENADI):

1. Patent protection lasts twenty years from the registration and cannot be extended.
2. Utility model protection lasts for ten years from the application date and is not renewable.
3. Industrial designs are protected for ten years from the application date and are not renewable.

Cost?

1. Patent registration fees in Ecuador are USD $495,33.
   - Title fees: USD $204.
2. Utility model registration fees in Ecuador are USD $136.
   - Title fees: USD $136.
3. Industrial design registration fees in Ecuador are USD $526,46.
   - Title fees: USD $136.

Copyrights

What is protected? Copyrights are a form of "property" that belongs to both the creator and the artist of a work. Under Ecuadorian law, a wide range of creations can be protected, including literary works, scripts for film or theater, process manuals, software, codes, projects, plans, models, and architectural and engineering designs.

Where to apply? Copyrights are registered in the National Service of Intellectual Rights (SENADI).

Duration of protection? For individual authors, copyright protection lasts for the lifetime of the author plus 70 years after their death. If a legal entity (e.g., a company or foundation) holds the rights, protection lasts for 70 years from the publication of the work.

INTELLECTUAL PROPERTY, CONT'D

Copyrights, CONT'D

Cost? The registration fee for Copyrights in Ecuador is USD $20 for database records, audiovisual works, and computer programs, and USD $12 for other types of copyright. Additional fees may apply for the registration of contracts or modifications under Resolution No. 002-2019-DG-NT-SENADI.

IP and Fintech

In the Fintech industry, software is protected under Copyright law, unlike other forms of Industrial Property. Computer programs or software are treated as a literary work and is protected by the National Service of Intellectual Rights (SENADI). The producer or holder of the software owns the Intellectual Property rights, granting them exclusive rights to prevent others from creating derivative versions. Business models and software in Fintech cannot be patented as they do not meet the criteria for patentability. Furthermore, unless otherwise stipulated in a contract, the employee or contractor who develops the software retains the IP rights. The owner or any authorized user of the software has the right to make necessary adaptations for personal use, provided such adaptations are not intended for commercial purposes.

DATA PROTECTION/PRIVACY

Ecuador's data protection regime is primarily set by the Organic Law on Personal Data Protection (LOPDP) (published May 26, 2021) and its General Regulation (RGLOPDP), issued via Executive Decree No. 904. The framework is strongly GDPR-inspired and establishes principles, lawful bases, rights, accountability, international transfer rules, breach notification duties, and administrative sanctions.

The Superintendence of Personal Data Protection (SPDP) is the national authority in charge of oversight and enforcement and has issued secondary regulations/resolutions (e.g., on international transfers, DPOs, contract clauses, and sanction methodology).

Practical startup checklist (controllers & processors)

If you collect, host, or use personal data in Ecuador (or target people in Ecuador), plan for:

- Map processing: what data, where it flows, vendors, countries, retention, and purposes.
- Pick and document a lawful basis for each purpose (see "Lawful bases").
- Transparency notice at collection (controller identity, purposes, recipients, retention, rights, contact, DPO if applicable).
- Security program: technical + organizational measures, incident response plan, and continuous risk evaluation.
- Controller–processor contracts: instructions, confidentiality, security, assistance, audits, subprocessors.
- Records/documentation: keep processing documentation and be ready to show it to SPDP (records are typically expected for larger entities and/or higher-risk processing).
- National registration: register/update required information in the National Data Protection Register; initial reporting is due within 10 days after starting processing.

DATA PROTECTION/PRIVACY, CONT'D

Key obligations (Controller / "Responsable")

Controllers are accountable for lawful, fair, and transparent processing and must, at minimum:

- Accountability: maintain policies/procedures, train staff, govern vendors, and cooperate with SPDP.
- Purpose limitation + minimization: only process what is necessary for declared purposes.
- Retention: define retention periods and ensure secure deletion/blocking/anon. when no longer needed.
- Data subject rights: implement a process to receive/verify/respond within deadlines.
- Registration: register processing/database information with the SPDP register (not the personal data itself).
- International transfers: apply adequacy/safeguards/authorization logic and keep evidence.
- Breach management: detect, contain, document, and notify within legal deadlines.

Key obligations (Processor / "Encargado")

Processors must:

- Process data only on documented instructions from the controller.
- Implement appropriate security measures and help the controller meet compliance duties (rights, audits, incident response).
- Keep records where required and support accountability.
- Use subprocessors only with controller authorization (or as contractually permitted) and flow down equivalent obligations.

Lawful bases (legal grounds)

Processing is lawful if it meets one of the LOPDP conditions, commonly: i) Consent (free, specific, informed, unequivocal; revocable); ii) Legal obligation (Ecuadorian law); iii) Court/judicial order or competent authority mandate; iv) Contract / pre-contractual steps with the data subject; v) Vital interests (life/health); vi) Public interest / public powers (where applicable); vii) Publicly accessible sources (with purpose-compatibility limits); viii) Legitimate interest (requires a balancing test and documented rationale; be ready to justify to SPDP).

Data subject rights & response times

Core rights include access, rectification/update, erasure, objection, and portability (among others). As a rule, controllers must respond within 15 days, and erasure (when applicable) must generally be executed within the same timeframe.

Startup tip: use one intake channel (webform or email), define identity checks, and run a ticketing SLA.

Special categories (higher bar)

"Special categories" include sensitive data, children/adolescents' data, health data, and disability-related data. These generally require stricter conditions (often explicit consent or specific legal grounds) and stronger safeguards for example, anonymisation or other technical measures.

International data transfers

International transfers are permitted if the destination is recognized as adequate by the authority or adequate safeguards are used (binding legal instruments ensuring Ecuador-equivalent protections and enforceable remedies). If neither applies, you obtain authorization or rely on a statutory exception (e.g., explicit consent, contract necessity, public interest, legal claims).

Transfer details may need to be registered as indicated by the Regulation/secondary rules.

Note: Ecuador does not create country-specific bans (e.g., "China" or "countries of concern"); the same adequacy/safeguards/authorization model applies to all destinations.

DATA PROTECTION/PRIVACY, CONT'D

Data Protection Officer (DPO)

You must appoint a DPO if you are a public sector entity or are conducting permanent/systematic monitoring by volume/nature/scope/purposes or doing large-scale processing of special categories (as detailed by the Regulation/secondary rules).
Voluntary appointment is a strong best practice for scale-ups and regulated sectors. SPDP provides an online DPO appointment channel.

Personal Data Breaches

Controllers must notify SPDP and ARCOTEL as soon as possible and no later than 5 days after becoming aware of the breach (unless an exception applies). Data subjects must also be notified when the breach creates risk to rights/freedoms, within 3 days from when the risk is known.
SPDP provides an online breach notification channel.

Sanctions

The LOPDP includes corrective measures and an administrative sanctions regime (enforceable after the transition period). For private entities, fines can range approximately from 0.1%–0.7% of prior-year turnover for minor infringements and 0.7%–1% for serious infringements, subject to proportionality factors. The Regulation also foresees a public registry of non-compliant controllers/processors with firm decisions.

Extraterritoriality & local representative ("apoderado especial")

The LOPDP applies even if you are not established in Ecuador when you: i) Offer goods/services to people resident in Ecuador, or ii) Monitor their behavior in Ecuador, or iii) Are otherwise subject via contract/international public law rules.
If you are a foreign controller/processor not established in Ecuador and the law applies, the Regulation requires appointing an "apoderado especial" in Ecuador with sufficient powers to represent you before administrative/judicial authorities—unless the processing is occasional, does not involve large-scale special-category data, and is unlikely to create relevant risk.

ARTIFICIAL INTELLIGENCE

Currently, Ecuador does not have a specific, binding national regulatory framework for Artificial Intelligence (AI). However, the regulatory landscape has evolved significantly through a combination of data protection enforcement, public policy instruments, stalled legislative efforts, and sectoral regulation.

The primary legal framework governing AI systems that process personal data is the Organic Law on Personal Data Protection (LOPDP), aligned with the fundamental principles of the GDPR but adapted to the Latin American context. Article 12 mandates transparency regarding the existence of automated assessments and decisions, including profiling — effectively imposing an "Explainable AI" obligation. Article 17 grants individuals the right not to be subject to decisions based solely or partially on automated assessments, with the right to request an explanation, submit observations, access evaluation criteria, and challenge the decision. This right does not apply when the decision is necessary for a contract, authorized by law, based on explicit consent, or poses no serious risks.

ARTIFICIAL INTELLIGENCE, CONT'D

In mid-2024, the government established a temporary AI Ethics Committee within the Ministry of Telecommunications and Information Society (MINTEL), involving both the public and private sectors, to advise on the formulation of national AI policy. That same year, Ecuador actively participated in international AI governance dialogues, including the Second Ministerial Summit on the Ethics of AI in Latin America and the Caribbean (October 2024), reflecting its commitment to regional cooperation and alignment with global AI ethics standards.

Between 2024 and 2025, three separate AI bills were presented to the National Assembly: a comprehensive regulation inspired by the EU AI Act's risk-based classification, an initiative focused on digital literacy and startup ecosystem development, and a law protecting the human voice against unauthorized AI cloning and synthesis. The Specialized Education Commission unified these proposals into a single bill for consolidated analysis. However, as of February 2026, no report for first debate has been produced, and the unified bill remains stalled without a defined timeline for advancement. A previous bill on AI and children's rights was archived.

In the financial sector, the Financial Policy and Regulation Board and the Superintendence of Banks issued regulations in 2025 for financial technology service entities, covering digital credit concession, automated personal finance management, and financial advisory through digital interfaces. While these norms require entities to maintain integrity in information processing and implement risk management schemes, they do not contain specific provisions for algorithmic auditing or AI bias assessment.

Also during 2025, the Superintendence of Economic Competition (SCE) adopted an internal AI governance framework — including a Code of Ethics recognized by UNESCO and audit guidelines — establishing that AI tools serve as technical support without replacing human decision-making. While internal, these frameworks are relevant for companies subject to competition law oversight that may be affected by AI-assisted enforcement proceedings.

In January 2026, the work of the AI Ethics Committee culminated with the publication of the National Strategy for the Promotion of Ethical and Responsible Development and Use of Artificial Intelligence (EFIA-EC), establishing a roadmap for 2025–2029 built upon three axes: responsible AI governance, capacity building, and strategic adoption and innovation. The strategy contemplates regulatory sandboxes, educational programs, and alignment with UNESCO's Recommendation on the Ethics of AI. While this instrument sets the standard of due care in the country, it is a policy framework rather than a binding regulation with sanctioning power over the private sector. Ecuador presented this strategy to a global audience at the World Governments Summit 2026 in Dubai.

In February 2026, the Superintendence of Personal Data Protection (SPDP) issued a binding General Norm for the Guarantee of Personal Data Protection Rights in the Use of AI Systems, defining roles within the AI supply chain (developer, deployer, distributor, implementer) and imposing obligations including risk analyses, impact assessments, security measures, and AI system auditing based on risk level. The SPDP is empowered to audit AI systems and impose corrective or precautionary measures in cases of non-compliance.

From an extraterritorial compliance standpoint, Ecuadorian companies exporting AI-powered products or services to the European Union are subject to the provisions of the EU AI Act (Regulation EU 2024/1689), regardless of Ecuador's domestic legislative timeline, creating a dual compliance environment for export-oriented technology companies.

ECUADOR

EMPLOYEES/CONTRACTORS

Foreign entities engaging employees or contractors in Ecuador should be aware of the following key points:

Labor relations in Ecuador are governed by the Labor Code, which outlines the rights and obligations of employers and employees. The code specifies that an employment relationship is established when there is the provision of lawful and personal services, remuneration, and subordination. The current unified basic salary is $482. Additionally, Ecuadorian legislation recognizes various types of contracts, including individual employment contracts, collective employment contracts, and special contracts.

Indefinite Employment Contract

The **Indefinite Employment Contract** is the default contract type under Ecuadorian law. It does not require a specified end date and remains in force unless terminated under legally established grounds.

This contract includes a **90-day probationary period**, during which either party may terminate the relationship without severance compensation.

Once the probationary period ends, termination must comply with the provisions of the Labor Code. Unjustified dismissal ("despido intempestivo") entitles the worker to statutory compensation calculated based on length of service, in addition to proportional labor benefits.

Mandatory Employment Benefits

Employers must provide the following statutory benefits:

- **Thirteenth Salary:** Equivalent to one-twelfth (1/12) of annual remuneration, payable no later than December 24.
- **Fourteenth Salary:** Equivalent to one Unified Basic Salary, payable either cumulatively by March 15 (Coast and Galápagos) or August 15 (Sierra and Amazon region).
- **Profit Sharing:** Employers must distribute 15% of annual net profits among workers (10% distributed equally and 5% distributed according to family burdens).
- **Working Hours:** Maximum of eight hours per day and forty hours per week, unless otherwise permitted by law. Overtime and night work are subject to statutory surcharges.
- **Annual Vacations:** Workers are entitled to 15 calendar days of paid vacation after one year of service.
- **Maternity and Paternity Leave:** Female workers are entitled to 12 weeks of paid maternity leave (extendable in specific cases). Fathers are entitled to 15 days of paid leave, extendable depending on circumstances established by law.
- **Social Security:** Employers and employees must contribute to the Ecuadorian Institute of Social Security (IESS). Employer contribution is 11.15% of remuneration, and employee contribution is 9.45%. The system provides coverage for illness, maternity, occupational risks, old age, disability, death, and unemployment insurance.

Work for Hire Regime

Ecuador does not have a specific statutory "work for hire" regime comparable to common law jurisdictions. Ownership of works created during employment is generally governed by the applicable intellectual property legislation and the terms agreed in the employment contract. Therefore, it is advisable to include express intellectual property assignment clauses in employment and contractor agreements.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of Employment

There are significant restrictions on termination of employees in Ecuador.

The Labor Code establishes specific causes for termination, including:

- Mutual agreement
- Completion of agreed work
- Expiration of the agreed term (in the case of legally permitted fixed-term or special duration contracts)
- Dismissal for legally justified cause
- Fortuitous events or force majeure

In contracts validly executed for a specific term or duration (where permitted by law), the employment relationship may terminate upon the arrival of the agreed expiration date, without triggering unjustified dismissal compensation, provided that the contract complies with the legal requirements applicable to that modality.

Unilateral dismissal without legal cause is permitted but triggers mandatory statutory compensation ("despido intempestivo").

Additionally, special protection regimes apply to certain categories of employees, including:

- Pregnant workers
- Union leaders
- Individuals with disabilities
- Employees under medical leave

Dismissal of protected employees may result in enhanced compensation and additional legal exposure.

Independent Contractors (Professional Services)

Ecuadorian law allows companies to engage individuals under professional services agreements (civil/commercial contracts), where statutory labor benefits do not apply.

However, if in practice the relationship includes subordination and the essential elements of employment, authorities may reclassify the relationship as an employment contract. This may result in retroactive payment of labor benefits, social security contributions, and administrative fines.

Therefore, it is essential that contractor arrangements comply with labor and tax regulations and reflect genuine independence in practice.

CONSUMER PROTECTION

In Ecuador, consumer protection is governed by several laws, including the Organic Consumer Defense Law, the Civil Code, and the Electronic Commerce Law. Foreign entities must understand key aspects of these regulations to ensure compliance with local standards. The main obligations and requirements are as follows:

- **Advertising Regulations:** Misleading or abusive advertising that deceives consumers is prohibited. Advertising must be truthful and not deceive or mislead the consumer.
- **Price Transparency:** Prices and basic commercial information must be displayed publicly, with the final price clearly indicated to avoid confusion.
- **Invoicing:** Suppliers of goods and services must issue invoices for all transactions, ensuring transparency and accountability.
- **Warranty and Repairs:** Consumers have the right to request repairs or changes to goods or services within 90 days of receiving them. This includes goods that are defective or fail to meet the expected standard.
- **Promotions and Offers:** Promotions must be clearly documented, indicating the duration of the offer, the previous price, or any benefits provided. This ensures transparency and prevents misleading offers.
- **Contractual Protection:** Terms of Service and adhesion contracts must be clearly outlined to protect consumers from unfair conditions. Contracts must be written in plain language that is easy to understand.
- **Credit System:** If goods or services are acquired through a credit system, the total amount to be paid, including interest and fees, must be clearly stated and communicated to the consumer.
- **Debt Collection:** Harassment or intimidation in debt collection processes is strictly prohibited. Any actions taken to collect debts must comply with the law and avoid abusive practices.
- **Prohibition of Speculation:** The law prohibits the practice of speculation, which refers to unfair price increases during times of crisis or emergency.
- **Health and Safety:** Suppliers must inform consumers of potential health or safety risks related to their products or services, ensuring that consumers are fully aware of any dangers.

Consumer Rights:

- Consumers have the right to life, health, and safety, access to basic services, goods of optimal quality, freedom of choice, transparent information, non-discriminatory treatment, education, reparation and compensation for damages. They also have access to administrative and judicial protection.
- Consumer associations, established under the Consumer Defense Law, can be formed by individuals or legal entities (non-profit) to protect consumer rights. These associations must register with the Ministry of Social Welfare and meet specific requirements, such as having at least 50 members and operating on a non-commercial focus.

Penalties:

- The Ombudsman's Office is responsible for addressing user complaints regarding non-compliance. However, it does not have the authority to impose sanctions or collect fines. Despite this, the law sets a pecuniary sanction of up to USD $100,000 for certain violations.
- Consumers can seek compensation for damages through civil actions. These actions may result in remedies, such as free repairs, replacement, or refunds, with a statute of limitations of 12 months.

ECUADOR

TERMS OF SERVICE

In Ecuador, online service terms are typically established through adhesion contract which are standardized and pre-formulated agreements created by one party (the service provider) and accepted by the other party (the consumer) without the opportunity for negotiation. These contracts must adhere to specific and mandatory requirements set forth in the Organic Law for Consumer Protection.

According to article 41 of this law, adhesion contracts must meet the following criteria:

- **Legibility:** The terms must be presented in legible characters and should not contain any appendices or supplementary documents as appendices.
- **Language:** All online terms of service must be written in Spanish.
- **Prohibited Clauses:** The terms must not included clauses that are considered abusive or that undermine consumer rights, such as:
  - Imposing the mandatory use of arbitration or mediation unless the consumer expressly consents.
  - Allowing the service provider to unilaterally alter the price or any other condition of the contract.
  - Granting the service provider the exclusive right to unilaterally terminate the contract, suspend its execution, or revoke consumer rights, unless such termination or modification is due to a breach attributable to the consumer.
  - Including blank spaces that are left unfilled or are illegible before the contract signed.

In general, any clause that leads to the consumer's defenselessness or is contrary to public policy or good customs is prohibited.

Regarding early termination of adhesion contracts for services such as telecommunications, prepaid medicine, or satellite/cable television, Ecuadorian law prohibits service providers from imposing penalties, fines, or sanctions on consumers for early termination. If such clauses are included in the contract, they are considered ineffective and unenforceable. However, the consumer is still obligated to pay for the services provided up to the point of termination and for any goods acquired to facilitate the service.

The service provider must execute the effects of early termination 15 days after formal notification to the consumer.

Regarding refunds and consumer rights, consumers in Ecuador have the right to request refunds, exchanges or cancellations of goods or services within 15 days following receipt of the product or service. The exercise of this right leads to the immediate termination of the service. The service provider must comply with this requirement, ensuring that the consumer is refunded or otherwise compensated as stipulated by law.

TAX/FUNDING

General Income Tax Regime for Companies

Ecuador has a specific tax regime that is primarily determined by the level of income, the type of taxpayer, and the nature of the activities carried out by companies or individuals. The tax system is governed by constitutional principles such as legality, generality, equality, progressivity, efficiency, administrative simplicity, non-retroactivity, transparency, and revenue sufficiency.

Actually, the Ecuadorian system provides differentiated rules for certain regulated or strategic sectors, such as financial services, hydrocarbons, mining, and insurance, as well as for specific activities like sports betting operations. As a result, the type of activity directly influences the method of calculating the taxable base, the applicable tax rate, and the corresponding formal obligations.

In Ecuador, the applicable income tax regime depends on the taxpayer's level of gross income and economic activity, "RIMPE Negocio Popular" applies to very small taxpayers with annual gross income of up to USD 20,000, who are subject to a simplified and reduced tax burden intended to promote formalization and administrative ease. Individuals who qualify under the RIMPE Emprendedor category are subject to a simplified regime designed for small and medium-sized taxpayers whose annual gross income does not exceed the legal threshold established by law (currently up to USD 300,000). Under this regime, income tax is determined according to a progressive table based on gross income. In contrast, taxpayers who exceed the RIMPE thresholds, as well as corporations in general, are subject to the general corporate income tax rate of 25%, which is applied to their taxable base calculated on net profits after allowable deductions.

RIMPE Income Tax Regime

The **RIMPE (Simplified Regime for Entrepreneurs and Popular Businesses)** is a special income tax regime in Ecuador applicable to individuals and certain entities with annual gross income of up to USD 300,000. It is divided into two categories: **RIMPE Negocio Popular**, for taxpayers with income of up to USD 20,000, which offers simplified compliance and a reduced tax burden; and **RIMPE Emprendedor**, for those with income between USD 20,000 and USD 300,000, where income tax is calculated on gross income under a progressive scale.

This regime is intended to simplify tax obligations and promote the formalization of small businesses. However, it does not apply to taxpayers engaged in certain regulated or strategic sectors such as financial services, insurance, hydrocarbons, mining, petrochemicals, pharmaceuticals, and other activities subject to specific tax regimes. It is also unavailable to taxpayers who exceed the established income thresholds or who carry out activities expressly excluded by law, in which case they must transition to the general tax regime.

Special Regime for Sports Betting Operators

As of June 2023, a unique tax was established for sports betting operators, applicable to both residents and non-residents. The taxable base for residents is the total revenue generated (including commissions) minus the total amount of prizes paid in the same period, provided that the withholding tax was applied at the time of prize payment in accordance with the percentages set by the tax authority. The taxable base for non-residents is the total amount paid by the user in each transaction. The tax rate for this regime is 15%, and it must be declared on a monthly basis.

TAX/FUNDING, CONT'D

Exemptions and/or Tax Benefits

Some of the most notable exemptions include:

- Dividends and profits, calculated after the payment of income tax, distributed by resident national or foreign companies in Ecuador to other national companies, are exempt from taxation.
- Income generated from the occasional sale of real estate by individuals is exempt from income tax, provided the properties are used for housing, including accessories such as parking spaces, storage units, and similar assets. This exemption applies to two property sales within a fiscal period; from the third sale onward, the exemption does not apply.
- Companies incorporated in Ecuador, as well as branches of foreign companies domiciled in the country and permanent establishments of non-domiciled foreign companies that make new investments and earn taxable income, are subject to a reduced income tax rate of three percentage points.
- New companies incorporated by existing companies may benefit from a three-percentage-point reduction in the applicable corporate income tax rate, provided they qualify under the MYPYME regime. To be eligible, the new company must generate annual gross income of up to USD 1 million and meet the conditions established for micro, small, or medium-sized enterprises. This reduction applies as an incentive to promote the creation of new productive entities and support business growth within the limits defined by law.

Deductions

Additional deductions beyond regular business expenses include:

- **Additional deduction for job creation:** Taxpayers may apply an extra deduction on salaries and employee benefits paid to new employees, particularly those belonging to priority groups (such as young people, persons with disabilities, senior citizens, among others), subject to net job creation and minimum employment retention requirements.
- **150% additional deduction for sponsorship of sports, artistic, and cultural activities:** Companies may apply a 150% deduction on advertising and sponsorship expenses allocated to projects qualified by the Ministry of Sports or the Ministry of Culture and Heritage, encouraging private investment in these sectors.
- **Additional deduction for research, development, and innovation:** Expenses related to technological research and innovation projects may qualify for enhanced deductibility, provided the projects meet technical criteria and obtain the required certification from the competent authority.
- **Additional 100% deduction for private health insurance and prepaid medical services:** Employers may deduct an additional 100% of the amounts paid for private health insurance or prepaid medical coverage for their employees, provided the benefit is granted to all employees and complies with regulatory conditions.

Value Added Tax (VAT)

General Rate

VAT applies to the transfer of ownership or importation of tangible movable goods at all stages of commercialization, as well as to copyrights, industrial property rights, and related rights. It also applies to the value of services rendered, in the form and under the conditions established by law. The general VAT rate is 15%.

Zero Rate VAT

Most essential goods in Ecuador, including basic food products such as milk, bread, sugar, and other staple items, are subject to a 0% VAT rate. This preferential rate also applies to medicines and pharmaceutical products for human use, electric vehicles, and the importation of hydrocarbon-derived fuels, biofuels, and their blends (including LPG and natural gas) for domestic consumption, as well as essential services such as domestic land and water transportation, healthcare, residential housing rentals, and education, with the aim of reducing the tax burden on fundamental goods and services and promoting social welfare.

TAX/FUNDING, CONT'D

Value Added Tax (VAT), CONT'D

VAT Tax Credit
Taxpayers are entitled to a tax credit for VAT paid on local purchases or imports of goods that become part of their fixed assets, as well as for VAT paid on goods, raw materials, inputs, and services subject to this tax, provided these goods and services are exclusively used in the production and commercialization of other VAT-taxed goods and services. This tax credit can be used for up to five (5) years from the due date of the tax return. To qualify for the tax credit, the VAT amount must be separately stated in the respective sales receipts, import documents, or withholding vouchers.

Foreign Exchange Outflow Tax (ISD)

General Rate
This tax generally applies to the transfer of funds abroad. Currently, the tax rate is 5%.

Investment contracts
Investment contracts in Ecuador are formal agreements between investors and the Ecuadorian government that establish the terms and conditions for new investments in the country. These contracts aim to provide stability and clear regulations, safeguarding investments from frequent economic, political, legal, and social changes in Ecuador.

Eligibility Criteria:
- **Minimum Investment Amount:** The total investment must be at least $1 million, either made within the past two years or planned for the future.
- **Initial Investment Requirement:** A minimum of $100,000 must be invested within the first year after signing the investment contract.
- **Application Process:** Investors are required to submit an application for an investment contract to the Ministry of Production, Foreign Trade, Investments, and Fisheries.

Benefits of Investment Contracts:
1. **Income Tax Reduction:** Up to a 10% reduction in the Income Tax rate.
2. **Exemption from the Foreign Currency Outflow Tax (ISD):** Investors are exempt from paying this tax.
3. **Customs Duty Exemptions:** Exemption from certain import duties.
4. **Tax Stability:** Guarantees that the tax regulations in effect at the time of signing will remain unchanged for the duration of the contract.
5. **Legal Stability:** Ensures that specific sectoral regulations applicable to the project remain consistent throughout the contract period.
6. **Arbitration Options:** Access to national or international arbitration for dispute resolution.

These provisions offer legal certainty against potential regulatory changes during the project's lifespan and ensure impartiality in resolving disputes. Additionally, investments are protected against confiscation and discriminatory treatment.

In summary, investment contracts in Ecuador serve as a mechanism to attract both domestic and foreign investments by providing a stable and secure legal framework, thereby fostering economic growth and development in the country.

WHAT ELSE?

Decentralization and Autonomy: Ecuador recognizes political, administrative, and financial autonomy for decentralized autonomous governments, including municipal governments. This means that municipalities have the authority to create, modify, exempt, or eliminate fees and special contributions for municipal services and improvements.

Municipal Taxes: Municipal or metropolitan taxes in Ecuador include property taxes (urban and rural), alcabala tax (tax on the transfer of real estate), vehicle tax, registration and patent tax, tax on public spectacles, tax on profits from the transfer of urban properties, gambling tax, and the 1.5 per thousand tax on total assets. Each of these taxes has specific rules and rates set by municipal councils.

Compliance and Reporting: Foreign entities should be aware of compliance requirements, including the obligation to keep accounting records and comply with tax laws. Compliance with regulations related to economic crimes, money laundering, and financial controls is particularly important.

Chambers of Commerce: While membership in chambers of commerce is not mandatory, they can provide benefits and serve as a platform for resolving disputes and promoting trade interests.

Superintendent Offices and Regulatory Agencies: Various superintendency offices oversee different sectors of the economy, such as companies, insurance, banks, and economic competition. Compliance with their regulations is crucial to avoid sanctions and ensure compliance with the legal framework.



EGYPT

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EGYPT

LEGAL FOUNDATIONS

First and foremost, Egypt follows a civil law system and thus relies on codified laws rather than judicial precedents. The Egyptian legal framework is influenced by the French Civil Code, especially in civil and commercial matters. Additionally, Egypt is a unitary state governed by a central government that is subject to the oversight of the Egyptian Parliament, which is the supreme legislative authority.

Furthermore, the Jurisdictional system is divided into four main judiciary authorities:

1) Ordinary Judiciary
This Judiciary is related to all disputes and crimes that are not governed by the Council of State Judiciary, which resolves disputes relating to civil, criminal, and commercial matters. It involves:

- Ordinary Courts:
  - District Courts;
  - Primary Courts; and
  - Courts of Appeal.
- Economic Courts: They consist of primary and appellate circuits; and
- Supreme Court: It is considered the highest judicial authority, and the final appeals from the abovementioned courts are filed before it.

2) State's Counsel (Conseil D'etat)
Egypt has a "dual" judiciary system that comprises the aforementioned Ordinary Courts which have the general jurisdiction in civil and criminal matters and the Conseil D'etat which oversees administrative disputes in general. Originally established in 1948 and fashioned after the French Conseil D'etat, it does not form a part of the Ordinary Judiciary, its administration and appointment system follows a path that has a high degree of independence. One of the key characteristics of Egyptian administrative law is that it is not codified and is rather reliant on judicial precedents established by the judgments and opinions of the Conseil D'etat. It also acts the legal counsel for the government in the sense of issuing [binding] legal advice to the various government entities and acts as the disciplinary court for a large part of the Egyptian public servants.

It comprises three main divisions:

- Judicial Division:
  - Disciplinary Courts;
  - Administrative Courts;
  - Court of Administrative Justice;
  - Supreme Administrative Court; and
  - State Commissioner's body.
- Legislation division: It reviews the drafting of legislation as deemed urgent by the Prime Minister, Minister, or Head of the State's Counsel.
- Advisory division

LEGAL FOUNDATIONS, CONT'D

3) Military Judiciary
This Judiciary is related to all crimes related to the armed forces, its officers, personnel, and those in their positions. Additionally, it related to all crimes committed by members of the General Intelligence Service during and due of service.

4) Supreme Constitutional Court ("SCC")
The SCC is the highest court in Egypt which -has exclusive jurisdiction to review the constitutionality of laws and regulations. In addition, SCC resolves conflicts between Ordinary Judiciary and Council of State Judiciary judgments.

CORPORATE STRUCTURES

The Egyptian law provides two categories of commercial structures that a foreign entrepreneur can set up in Egypt without the need for an Egyptian partner, as follows:

Branch and Representative Offices

In the event that a Foreign entrepreneur owned a company that has a local commercial agent may set up a representative office that is exempt from income tax contingent upon the said representative office restricting its activities to investigating the possibility of production in Egypt, meanwhile, such company may register a branch office to carry out a contract that it has to perform in Egypt.

Companies

Egyptian law recognizes three types of companies under Companies Law No. 159 of 1981 or Investment Law No. 72 of 2017, all of which can be owned and managed by foreign entrepreneurs, namely, joint stock companies, limited liability companies, and single shareholder limited liability companies. The following table indicates the main differences between the three types of companies:

CORPORATE STRUCTURES, CONT'D

Scope	Joint Stock Companies	Limited Liability Companies	Single Shareholder Limited Liability Companies
Minimum number of partners/shareholders	3	2 (Max. 50)	1
Management	Board of Directors	One or more directors	One or more directors
Change to signature matrix	Board of Directors resolution	General assembly resolution	Resolution by the owner
Change to bylaws	General assembly resolution	General assembly resolution	Resolution by the owner
Requirement to hold an annual general assembly	Yes	Yes	No
Dividend tax	Yes	Yes	Yes
Winding up	General assembly resolution	General assembly resolution	Resolution by the owner
Change of ownership	Shares can only be sold through the stock exchange	Stocks can be sold by virtue of a notarized contract or a simple contract	A company can be sold by virtue of a notarized contract

ENTERING THE COUNTRY

Foreign investment in Egypt is regulated primarily by Investment Law No. 72 of 2017 and Companies Law No. 159 of 1981, along with sector-specific regulations. Egypt actively promotes foreign direct investment through incentives, while maintaining some restrictions on minimum capital and the percentage of national ownership in certain business sectors.

In light of the abovementioned paragraph, the foreign entrepreneur should be aware of the following:

Investment Framework

Full Foreign Ownership: Foreign investors can establish companies in most sectors without Egyptian partners. However, certain activities require wholly or majority Egyptian ownership such as media and press, and commercial agencies.

Governmental Oversight: The General Authority for Investment and Free Zones ("GAFI") acts as the main regulatory body for company registration, investment facilitation, and dispute resolution mainly through the Investor Dispute Settlement Center and mediation mechanisms.

EGYPT

ENTERING THE COUNTRY

Sector-Specific Restrictions

Media and Press: Requires special approval from the Supreme Council for Media Regulation, additionally, foreign shareholders may not own a high percentage of shares or a percentage that gives them the right to manage in media institutions.

Oil, Gas, and Mining: Typically conducted through production-sharing agreements with state entities such as Egyptian General Petroleum Corporation("EGPC").

Real Estate and Land Ownership: The foreigners can own up to two residential properties, each not exceeding 4,000 sqm. In the event that additional properties or larger areas require the Council of Ministers' approval.

Additionally, foreign ownership is restricted in border areas, Sinai, and other strategic locations. However, foreign investors may acquire land in free zones and investment zones, subject to GAFI approval and specific regulations.

Furthermore, foreigners cannot own agricultural land.

Merger Control and Competition Regulations

Egypt has implemented a mandatory pre-merger notification regime, requiring approval from the Egyptian Competition Authority ("ECA") before completing certain transactions, as follows:

- Companies shall notify ECA before finalizing transactions that exceed specific financial thresholds.
- **Thresholds** (As per Competition Protection and Anti-Monopoly Practices Law):
  - Domestic Transactions: Notification is required in the event that the combined annual turnover or value of assets in Egypt shall exceed EGP 900 million, with at least two of the involved entities each generates annual turnover of EGP 200 million within Egypt.
  - Global Transactions: Notification is required in the event that at least one participating entity generates EGP 200 million in annual turnover within Egypt, and the combined worldwide annual turnover of the involved entities surpasses EGP 7.5 billion.

National Security & Strategic Considerations

Egypt has established national security review mechanisms to oversee foreign investments, particularly in sensitive sectors such as telecommunications, banking, and defense-related industries. The Egyptian Supreme Cybersecurity Council plays a pivotal role in monitoring and regulating these investments to ensure they align with national security interests.

Furthermore, where an Egyptian company is wholly or partially owned by a foreign partner, GAFI requires a security check as part of the registration process and implementation of the company's activity.

Free Zones & Investment Incentives

Egypt provides various incentives to foreign investors, especially in Public and Special Free Zones, Economic Zones, Investment Zones, and companies incorporated under Investment Law No. 72 of 2017.

EGYPT

INTELLECTUAL PROPERTY

First and foremost, Egypt has a legal framework governing intellectual property rights, established in accordance with international treaties such as the Trade-Related Aspects of Intellectual Property Rights, the Berne Convention, and agreements under the World Intellectual Property Organization ("WIPO"). This framework is codified in the Protection of Intellectual Property Rights Law No. 82 of 2002 ("IP Law"). Additionally, trade secrets fall under the chapter of undisclosed information, which includes specific legislation addressing their protection. This aspect will be discussed in detail in the following paragraph.

Under the implementation of the National Intellectual Property Strategy ("NIPS"), Egypt has issued Law No. 163 of 2023, promulgating the law establishing the Egyptian Intellectual Property Authority ("EGIPA"), which shall be the sole de jure authority in preparing and updating NIPS, as well as developing the necessary executive mechanisms to activate and monitor its implementation in cooperation with the relevant ministries and authorities. Moreover, EGIPA governs the registering, recording, depositing, and granting protection documents for IP rights as specified in accordance with IP Law.

Additionally, EGIPA has been assigned a particular remit from the Egyptian Patent Office ("EGPO") and the Plant Variety Protection Office ("PVPO"), as reflected in Decree No. 138 of 2025 and Decree No. 140 of 2025, in which the EGPO and PVPO will be consolidated as a part of EGIPA, as well as the Trade Register Department ("TRD") under the Internal Trade Development Authority.

Within the expiration of the period estimated by NIPS, EGIPA will be the sole de jure authority, and all IP-related offices, authorities, and remittances will be fully transferred to EGIPA.

International Protection: Nationals of all member countries of the World Trade Organisation shall benefit from any advantage, preference, privilege, or immunity granted by any other law to nationals of any state in connection with the rights provided for patents and utility models, trademarks, industrial designs and models, and copyrights, unless such advantage, preference, or immunity derives from:

- Agreements on judicial assistance or agreements on law enforcement of a general nature; or
- Agreements in connection with the protection of intellectual property rights, which came into force prior to 1 January 1995.

Furthermore, Egypt is a member of the Madrid System for International Trademark Registration, administered by WIPO. Egypt joined the Madrid Agreement on 1 July 1952, and the Madrid Protocol on 3 September 2009. This membership allows foreign entrepreneurs to register their trademarks in Egypt through the Madrid System.

Finally, in light of IP Law, note the following:

Patents

What is protectable? Any industrially applicable invention that is new and involves an inventive step, whether connected with new industrial products, new industrial processes, or a new application of known industrial processes. And any modification, improvement, or addition to a previously patented invention that meets the criteria of being new, inventive, and industrially applicable, as stated in the preceding paragraph to the owner of the modification, improvement, or addition.

Where to apply? It should be registered before the Egyptian Patent Office (EGPO).

Duration of protection? It shall be granted protection for twenty (20) years from the filing of the application date, meanwhile, this protection is not renewable.

Cost: Application fees for registration shall not exceed EGP 2,000, and the annual fee shall not exceed EGP 1,000, in addition to the expert fees and examination expenses.

INTELLECTUAL PROPERTY, CONT'D

Utility Model

What is protectable? Any new technical addition in the structure or composition of devices, tools, equipment, or their components, or products, processes, or means of manufacturing the above, and the like that is in current use.
Where to apply? It should be registered before the Egyptian Patent Office.

Duration of protection? It shall be granted protection for seven (7) years from the filing of the application date, meanwhile, this protection is not renewable.

Cost: Application fees for registration shall not exceed EGP 1,000.

Layout Designs for Integrated Circuits

What is protectable? New layout designs of integrated circuits.

A layout design shall be considered to be new if it is the result of its creator's own intellectual effort and is not part of the general knowledge common among professionals of the relevant industrial art. Nevertheless, a layout design consisting of elements that are part of the general knowledge common among professionals of the relevant industrial art shall also be considered new, if the combination of its components and their interconnections are in themselves original.

Where to apply? It should be registered before the EGPO.

Duration of protection? It shall be granted protection for ten (10) years from the registration date or its first commercial exploitation in Egypt or abroad, whichever is earlier, meanwhile, the protection shall cease fifteen (15) years from the date of its creation.

Cost: Application fees for registration shall not exceed EGP 1,000.

Undisclosed Information

What is protectable? It revolves around three main types I) Trade Secrets; II) Confidential Business Information; and III) Technical Know-how.

The protection shall extend to undisclosed information that involved a considerable effort, submitted on request to the competent authorities for marketing of pharmaceutical or agrochemical products, which utilize new chemical components necessary for the tests undertaken to allow such marketing.

Duration of protection? It shall be granted protection in the event that such information is undisclosed by the owner.

How to keep Undisclosed Information granted such protection? In the event that such information is considered confidential, it has a commercial value due to its secrecy, and the owner shall take effective legal and practical steps to maintain confidentiality.

INTELLECTUAL PROPERTY, CONT'D

Trademarks

What is protectable? Any sign distinguishing goods, whether products or services, and including in particular names represented in a distinctive manner, signatures, words, letters, numerals, designs, symbols, signposts, stamps, seals, drawings, engravings, a combination of distinctly formed colors and any other combination of these elements if used, or meant to be used, to distinguish the products of a particular industry, agricultural, forest or mining venture or any goods, or to indicate the origin of products or goods, or their quality, category, guarantee, preparation process, or to indicate the provision of any service. In all cases, a trademark shall be a sign that is recognizable by sight.

Furthermore, the owner of a well-known trademark, worldwide and in Egypt, shall have the right to enjoy the protection conferred by this Law even if such a mark is not registered in Egypt.

The trademarks granted two types of protection which are civil protection according to the general provisions of the Civil Code in addition to criminal protection according to the provisions of this IP law.

Where to apply? It should be registered before the Trade Registry Department (TRD).

Duration of protection? It shall be granted protection for ten (10) years from trademark registration, meanwhile, this protection may be renewable for an identical period or periods upon request of its owner and every time within the last year of the protection period, against payment of the fees due for the initial registration application.

Cost: Application fees for registration and all procedures shall not exceed EGP 5,000.

Industrial Designs and Models

What is protectable? Any composition of lines or any three-dimensional form whether or not associated with colors provided that such composition or form gives a special appearance of novelty and is industrially applicable.

Where to apply? It should be registered before the TRD.

Duration of protection? It shall be granted protection for ten (10) years from the filing of the application date, meanwhile, extended for a further period of five (5) years, if the owner of the industrial design applies for renewal within the last year of the protection period, and in the manner prescribed by the Regulations.

Copyrights and Related Rights

What is protectable? Any created literary, artistic, or scientific product, whatever its type, mode of expression, significance, or purpose of its creation.

Where to apply? Not required registration to grant protection. Additionally, copyright protection arises automatically upon the creation of an original work, without any formalities. The owner of the copyright may register it with the Ministry of Culture of Egypt.

Duration of protection? It has two types of rights:

- **Moral Rights** - The author and his universal successor shall enjoy over the work perpetual, imprescriptible, and inalienable moral rights. Such rights shall include the following:
  - The right to make the work available to the audience for the first time;
  - The right to claim authorship; and
  - The right to prevent any modification considered by the author as a distortion or mutilation of the work.

INTELLECTUAL PROPERTY, CONT'D

Copyrights and Related Rights, CONT'D

- **Financial Rights** - It revolves around seven main types:
  - **Author:** Financial rights shall be granted protection upon creation for the author's lifetime plus fifty (50) years after his/her death;
  - **Co-authored authors:** Financial rights shall be granted protection upon creation for the author's lifetime plus fifty (50) years after the death of the last author;
  - **Authors of Collective works under the juridical entity:** Financial rights shall be granted protection upon publishing or availability for an audience, whichever is later, for fifty (50) years;
  - **Applied Artworks Authors:** Financial rights shall be granted protection upon publishing or availability for an audience, whichever is later, for twenty-five (25) years;
  - **Performing Artists:** Financial rights shall be granted protection upon performance or recording, depending on the circumstances, for fifty (50) years;
  - **Audio Recording Producers:** Financial rights shall be granted protection upon recording or publishing, whichever is later, for fifty (50) years;
  - **Broadcasting organizations:** Financial rights shall be granted protection upon the date of the first broadcast of the radio program for twenty (20) years.

Plant Varieties

What is protectable? Plant variety is characterized by novelty, distinctness, uniformity, and stability, and it must have a specific denomination.

Where to apply? It should be registered before the Plant Variety Protection Office (PVPO).

Duration of protection? Trees and vines shall be granted protection for twenty-five (25) years from the guaranteed protection date, meanwhile, others shall granted protection for twenty (20) years, both from the granting of the breeder's right certificate date.

Cost: Application fees for registration shall not exceed EGP 10,000 and the annual fee shall not exceed EGP 2,000.

DATA PROTECTION/PRIVACY

Under Egypt's Personal Data Protection Law, No. 151 of 2020 ("PDPL") and its Executive Regulation issued by virtue of Decree No 816 of 2025 serves as the primary legislation governing data privacy and protection, applied to private sector entities and certain public sector entities that process personal data for non-sovereign activities and outlined fundamental principles of data processing, including I) Lawfulness and transparency; II) Purpose limitation; III) Data minimization; IV) Accuracy; V) Storage limitation; and VI) Confidentiality and security.

Personal Data Protection Center ("PDPC") issues two principal categories of licenses and permits, as follows:

- General licenses and permits, including:
  - Controller/processor license or permit
  - Controller license or permit
  - Processor license or permit
- Supplementary licenses and permits, including:
  - Cross-border data transfer license or permit
  - Video Surveillance systems license or permit
  - Direct electronic marketing license or permit

DATA PROTECTION/PRIVACY, CONT'D

Additionally, PDPL covers both automated and non-automated processing of personal data and applies to data holders, controllers, and processors, whether they are based in Egypt or processing the data of individuals in Egypt from abroad.

Entities addressed by the provisions of PDPL shall have to comply with its provisions as of 31 October 2026.

Furthermore, Egypt's PDPL is inspired by the General Data Protection Regulation ("GDPR"), as it adopts key principles like privacy rights, consent requirements, and data security rules, however, Egypt customized PDPL by introducing stricter, more centralized manner: I) Strong governmental control; II) Criminal penalties for some violations; and III) Restrictions on legal bases for processing, emphasizing explicit consent.

Finally, the notable differences are shown in the following table:

Scope	PDPL	GDPR
Legal basis for processing data	Primarily requires explicit consent from individuals in addition to limited exceptions as legal obligations or contractual necessity.	Processing is done on multiple legal bases, such as consent, contractual necessity, legal obligations, legitimate interest, vital interest, and public interest.
Appointment of data protection officer	Required for any judicial entity.	Required for public entities that process large-scale sensitive or special-category data.
Cross-border data transfers	Should only be transferred abroad in the event that: I) the receiving state has adequate data protection laws; II) the PDPC approves the transfer through license or permit; and III) the data subject gives explicit consent. (There is an exception)	Free transfer of data within the EU states. For non-EU states, data should be transferred in the event that the state has an adequacy decision, or in the event that companies use standard contractual clauses or binding corporate rules.
Data breach notification	Notify the PDPC within seventy-two (72) hours in the event that a data breach occurs and immediately if related to national security protection.	Notify the Data Protection Authority within seventy-two (72) hours in the event that the breach poses a risk to individuals' rights.
Penalties	Fines range from EGP 50,000 to EGP 5 million. In some cases, criminal penalties (Including imprisonment).	Fines of up to €20 million or 4% of global annual turnover, whichever is higher, in addition to penalties at the national level.

EGYPT

ARTIFICIAL INTELLIGENCE

Notwithstanding Egypt lacks a defined framework for regulating Artificial Intelligence ("AI"), the following laws are indirectly relevant to AI activities:

- **Protection of Intellectual Property Rights Law No. 82 of 2002:** Governs patents, copyrights, trademarks, and industrial designs, which are essential for protecting inventions, software, and creative works generated by AI.
- **E-Signature Regulation Law No. 15 of 2004:** Establishes a legal framework for electronic signatures and agreements, facilitating AI-driven automation in business transactions.
- **Anti-Information Technology Crimes Law No. 175 of 2018:** Addresses risks associated with information technology crimes, including AI-driven fraud, misinformation, hacking, and other anti-information technology crimes (Cybercrimes).
- **Personal Data Protection Law No. 151 of 2020:** Regulates the collection, processing, and use of personal data, including AI systems that process personal data through methods like facial recognition, targeted advertising, and AI-based decision-making.
- **Central Bank and Banking System Law No. 194 of 2020:** Regulates financial activities, including AI-powered fintech solutions, automated lending, robo-advisors, and fraud detection systems in the banking sector.

EMPLOYEES/CONTRACTORS

Employees

First and foremost, under Labor Law No. 14 of 2025, Civil Code No. 131 of 1948, Social Insurance and Pensions Law No. 148 of 2019, and Disability Act No. 10 of 2018, the employees work under the direct supervision and control of an entity, which is required to register them for social insurance and pensions. The employment relationships are governed by strict labor regulations, and foreign employees shall obtain visas and work permits. Additionally, unless otherwise agreed, the entity automatically owns the employee's patent.

Furthermore, in light of the above paragraph, note the following:

In Accordance with Labor Law

First and foremost, under Labor Law No. 14 of 2025, Civil Code No. 131 of 1948, Social Insurance and Pensions Law No. 148 of 2019, and Disability Act No. 10 of 2018, the employees work under the direct supervision and control of an entity, which is required to register them for social insurance and pensions. The employment relationships are governed by strict labor regulations, and foreign employees shall obtain visas and work permits. Additionally, unless otherwise agreed, the entity automatically owns the employee's patent.

- **Written Agreement:** In the event that there is no written employment agreement, the employment relationship is still valid if the employee or the company can prove de facto employment. Furthermore, in the event that the term of the definite employment agreement ends, and the employee continues in his/her employment relationship, it will be presumed to have an indefinite employment agreement.
- **Language of Employment Agreement:** It shall be in Arabic language or bilingual; including Arabic language.
- **Probation Period:** It should not exceed three (3) months.
- **Percentage of Employees:** The company has the right to employ foreign employees within a ratio of 10% of the total number of employees. This percentage may be increased by a decision from a competent committee.

EMPLOYEES/CONTRACTORS

In Accordance with Labor Law, cont'd

- **Termination**
  - Definite Employment Agreement: In the event that the employment agreement is concluded or renewed for a period exceeding five (5) years, the employee may terminate it but shall notify the company before termination; the termination notice period shall be three (3) months before the termination date, conversely, the company may terminate it, but shall pay the employee a bonus equivalent to one (1) month's salary for each year of employment.
  - Indefinite Employment Agreement: The employee or the company may terminate it at any time, but shall notify the other party before termination; the termination notice period shall be three (3) months before the termination date.

Furthermore, the company may dismiss the employee who commits a serious breach in accordance with the exclusive cases stipulated under Article 148 through the labor court.

Finally, the company may not terminate an indefinite employment agreement except within the limits of the cases mentioned under employee dismissal through the labor court or in the event that the employee is proven to be incompetent in accordance with the approved by-laws.

In Accordance with Disabilities Persons Rights Law

The company with twenty (20) or more employees shall have to employ at least 5% of its workforce from registered disabled individuals and shall notify the competent authority.

In Accordance with Social Insurance and Pensions Law

- **Social Insurance:** Compulsory social insurance for employees working in the private sector. Furthermore, the entity shall deduct the employee's share from their salary and remit both contributions to the National Organization for Social Insurance every month.
- **Pensions:** Employees who reach retirement age and have contributed to social insurance for at least one hundred and twenty (120) months shall be entitled to a pension.

Egypt does not follow an automatic "work-for-hire" doctrine like in the U.S., on the other hand, patent ownership regulated in accordance with IP Law.

- The foreign entity shall have all the rights derived from the inventions discovered by the employee during the period of employment relationship, insofar as the invention falls within the scope of the employment agreement or relationship.
- Additionally, the name of the employee shall be mentioned in the patent, and he/she shall be remunerated in all cases. In the event that such remuneration was not agreed on, he/she shall be entitled to fair compensation from the entity.
- In cases other than the preceding, where the invention is part of the activities of the public or private establishment to which the employee is attached, the entity shall have the choice either to exploit the invention or to acquire the patent against a fair compensation paid to the employee.
- In all cases, the invention shall be attributed to the employee.

Finally, there are specific regulations and requirements regarding women, children, and disabled individuals concerning their employment agreements.

EGYPT

EMPLOYEES/CONTRACTORS

Contractors

Under Civil Code No. 131 of 1948 and Commercial Code, the contractors work independently and are not entitled to social insurance or employee benefits unless otherwise agreed. Their rights and obligations are determined by the terms of the agreement. Additionally, there is a specific legal requirement for a license, a visa, or a work permit is required for foreign contractors to execute any project in Egypt. Furthermore, unless otherwise agreed, the contractor retains the patent rights to their work. Furthermore, note the following:

- **No termination clause exists:** General Civil Code principles shall be applied, which is the termination for reasonable notice, in addition to payment for completed work.
- **Fixed termination clause:** Early termination may require compensation unless justified in the terms and conditions of such agreement.

CONSUMER PROTECTION

In Egypt, consumer protection is regulated by various laws; Consumer Protection Act No. 181 of 2018 (mainly), Civil Code No. 131 of 1948, Commercial Code No. 17 of 1999, Real Estate Finance Law No. 148 of 2001, Personal Data Protection Law No. 151 of 2020, Telecommunication Regulation Law No.10 of 2003 and Capital Market Law No. 95 of 1992.

Furthermore, the core provisions that the foreign entity shall know in accordance with the Consumer Protection Act are as follows:

Consumer Rights

- The products or services shall meet health and safety standards, and product information, agreements, and invoices shall be available in Arabic, additionally, the suppliers shall provide consumers with accurate and complete product information.
- Generally, consumers can withdraw products within fourteen (14) days without a due reason, except for some types of products.
- Furthermore, the consumer has the right within thirty (30) days of delivery of the products to replace or withdraw products, in the event that the products are defective or do not conform to the specifications or the purpose for which the products were contracted.

Suppliers & Service Providers Obligations

- **Prohibition:** The Supplier is prohibited to import, produce, trade, or advertise products in such a way as to discriminate between citizens or abuse them, or to violate the rules of public order or morals.
- **Invoices:** The suppliers and service providers shall clearly display the product details, source, and pricing, additionally, the suppliers shall issue detailed invoices.
- **Suspending the sale of products:** The supplier is prohibited from suspending the sale of the products on a condition contrary to commercial practices, the condition of selling a certain quantity, linking the sale to the purchase of other products, or other conditions.
- **Consumer's data:** The supplier is obliged to keep all the consumer's data and information confidential and to not share them unless the consumer's consent has been proven.
- **Availability service, maintenance, and repair:** The Supplier shall make available service, maintenance, and repair centers, and also the original or approved spare parts of the imported or locally produced commodities.
- **Guarantee:** The suppliers shall be obligated to guarantee durable products against manufacturing defects, mainly for a period of at least two (2) years from the date the consumer receives the products, meanwhile, in the event that the same defect is repeated in the product more than twice during the first year from the date of the consumer's receipt of the product, which fundamentally affects the quality of the product's functional performance, the supplier shall be obligated to replace the product with a new one or return the product with a refund of its value.

CONSUMER PROTECTION

E-commerce Obligations

- The suppliers shall disclose all pre-contractual information, such as suppliers' identity, product specs, and pricing.
- Generally, the consumers can withdraw the products within Fourteen (14) days, except for some kinds of products.

Competent Authorities

- **The Consumer Protection Agency:** It was established as the primary regulatory body responsible for implementing the provisions of this Act.
- **Commercial Courts:** It specializes in settling civil and commercial disputes arising from the application of the provisions of this Act.
- **Court of Administrative Justice:** It specializes in settling administrative disputes arising from the application of the provisions of this Act.

Penalties for Non-compliance

- The fines shall apply in the range from EGP 10,000 to EGP 2,000,000 or product value for violation of the provisions of this Act. Additionally, the fine shall be doubled in events of recidivism.
- Imprisonment or detention for some violations of the provisions of this Act.
- Product recalls, business suspensions, and license revocations also apply in some violations of the provisions of this Act.

Finally, the Law differentiates between the liability of the Supplier, the manufacturer/producer, and the distributor/seller as follows: I) Manufacturer is liable for any damages caused by the product if it is proved that such damages were caused due to a defect in its design, production or installation; II) Supplier is liable for damages caused by the product due to the wrong use if it is proved that such damages were due to the Supplier that did not take the necessary precaution to prevent or warn of the occurrence of such damages; and III) Distributor/Seller is liable when the damage caused by the product was due to the way the product was prepared for consumption, preservation, packaging, trading or display.

TERMS OF SERVICE

For foreign entities providing online services in Egypt, their Terms of Service shall adhere to the requirements set forth in the following main laws: I) Personal Data Protection Law No. 151 of 2020, which was discussed beforehand in response to question no. (5); II) Consumer Protection Law No. 181 of 2018, which was discussed beforehand in response to question no. (8); and III) Anti-Information Technology Crimes Law No. 175 of 2018.

Mandatory Clauses for Enforceability

Clear Identification of Service Provider

An online service provider shall disclose their identity, including:

- Name and address.
- Contact information, including electronic communication.
- Licensing data.
- Any other information specified by the competent authorities in Egypt.

Explicit User Consent

- Online agreements shall include a clear mechanism for obtaining user consent, ensuring it is voluntary, informed, and explicit.

TERMS OF SERVICE, CONT'D

Mandatory Clauses for Enforceability, CONT'D

Data Privacy & Protection Compliance

- Online service provider shall establish clear mechanisms to enable the user to refuse electronic communication or withdraw his/her consent to its transmission.
- The Terms of Service shall outline how user data is collected, stored, and used.

Consumer Protection Provisions

- Online service provider shall clearly specify pricing, return policies, refund conditions, and warranty terms.
- Furthermore, the service provider shall provide terms in Arabic, in addition to any other languages used.

TAX/FUNDING

Egypt provides a dynamic investment environment regulated by a structured legal and tax framework. This tax/funding overview focuses on the main key regulations affecting investors and businesses operating in the Egyptian market.

First: Taxation

Income Tax

Individuals are subject to income tax regarding their income made in Egypt on net income, as follows:

Income Tax	Not exceed 600,000	Exceed 600,000 to 700,000	Exceed 700,000 to 800,000	Exceed 800,000 to 900,000	Exceed 900,000 to 1000,000	Exceed 1000,000 (Million)
0%	From 1 to 40,000	—	—	—	—	—
10%	Exceed 40,000 to 55,000	From 1 to 55,000	—	—	—	—
15%	Exceed 55,000 to 70,000	Exceed 55,000 to 70,000	From 1 to 70,000	—	—	—
20%	Exceed 70,000 to 200,000	Exceed 70,000 to 200,000	Exceed 70,000 to 200,000	From 1 to 200,000	—	—
22.5%	Exceed 200,000 to 400,000	Exceed 200,000 to 400,000	Exceed 200,000 to 400,000	Exceed 200,000 to 400,000	From 1 to 400,000	—
25%	More than 400,000	More than 400,000	More than 400,000	More than 400,000	More than 400,000	From 1 to 1,200,000
27.5%	—	—	—	—	—	Exceed 1,200,000

TAX/FUNDING, CONT'D

Corporate Tax

- Corporations are subject to a corporate tax at a rate of 22.5% on net profits.
  - Capital gains resulting from dealing in securities listed on the Egyptian Stock Exchange achieved from a source in Egypt, are subject to a corporate tax at a rate of 10% of the net capital gains without deducting any costs.

Dividends Tax

- Individuals residing in Egypt are subject to dividends tax on dividends on stocks and shares from Companies.
  - At a rate of 10% without deducting any costs on dividends made from a source in Egypt during one (1) year.
  - At a rate of 5% on dividends made from a source in Egypt during one (1) year, in the event that the securities are listed on the Egyptian Stock Exchange.
  - At a rate of 5% on dividends obtained by holders of documents in investment funds.
- **Exemption:** Dividends made in the form of free shares, whether those dividends are made in Egypt or abroad, and regardless of the form in which the dividend is made.
- The dividends shall be excluded from the income tax base to which this individual is subject after deducting the costs related thereto.

Capital Gains Tax

- Juridical and normal individuals are subject to capital gains tax at a rate of 10% on Profits from the disposal of securities or shares in companies listed on the Egyptian Stock Exchange without deducting any costs.
- The taxation paid abroad on the dividends or capital gains obtained by a resident individual abroad shall be deducted from the dividends tax or capital gains tax.

Value-Added Tax ("VAT")

- Standard VAT Rate:
  - Goods at a rate of 14%.
  - Service at a rate of 10%.
  - Machinery and equipment used in the production of a commodity or the provision of a service at a rate of 5%, excluding buses and passenger cars.
- Exemptions:
  - Goods or services are exported by projects in free zones, cities, markets, and special economic zones to abroad.
  - Furthermore, goods or services listed by those projects are necessary to carry out the licensed activity within the free zones, cities, markets, and special economic zones, excluding passenger cars.
  - Imports for scientific, educational, or cultural purposes by scientific and educational institutes and scientific research institutes may be exempted by a decision of the competent minister.
  - In addition to that, the tax stipulated in accordance with the tables attached to Value-Added Tax Law No. 67 of 2016 on the sale, performance, or import of goods and services shall be paid.
- In addition to that, the tax stipulated in accordance with the tables attached to Value-Added Tax Law No. 67 of 2016 on the sale, performance, or import of goods and services shall be paid.

TAX/FUNDING, CONT'D

In addition, Egypt is a member of several anti-double taxation treaties.

The Egyptian government has enacted Law No. 6 of 2025, which introduces incentives for small and medium-sized projects (SMEs) with annual transactions not exceeding twenty million Egyptian pounds. The key provisions of this law include the following:

- Exemption from the fee for developing the state's financial resources, the stamp tax, and fees associated with the notarization and authentication of contracts for the incorporation of companies and establishments and others.
- Exemption from capital gains tax derived from the disposal of fixed assets, machinery, or production equipment related to these projects.
- Exemption from dividend tax.

Furthermore, the income tax due on such projects is as follows:

- 0.4% for projects with annual transactions of less than five hundred thousand Egyptian pounds.
- 0.5% for projects with annual transactions of five hundred thousand Egyptian pounds and less than two million Egyptian pounds.
- 0.75% for projects with annual transactions of two million Egyptian pounds and less than three million Egyptian pounds.
- 1% for projects with annual transactions of two million Egyptian pounds and less than three million Egyptian pounds.
- 1.5% for projects with annual transactions of ten million Egyptian pounds and less than twenty million Egyptian pounds.

These incentives aim to foster the growth and development of SMEs in Egypt.

Second: Funding & Investment Incentives

Egypt provides a structured framework of funding and investment incentives through the following:

- **Governmental Authorities & Bodies:** Such as GAFI (Gafi- Home), CBE (Home), and the Industrial Modernization Center (مركز تحديث الصناعة - مركز تحديث الصناعة المصريه);
- **Entities:** Such as Egypt Ventures (Egypt Ventures – Investing in Youth) and the Sovereign Fund of Egypt (The Sovereign Fund of Egypt (TSFE) | Homepage); and
- **EU & International Investment Programs:** Programs provided by the European Investment Bank (Egypt and the EIB) and International Finance Corporation (International Finance Corporation (IFC)).



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LEGAL FOUNDATIONS

Estonia follows a civil law system, with its legal framework rooted in various acts and statutes that outline rights, obligations, and regulations.

The legal structure of Estonia consists of several important jurisdictional layers that contribute to the country's governance and legal order. These layers include:

- **Constitutional Jurisdiction:** At the highest level, Estonia's legal system is guided by its Constitution, which establishes the fundamental principles of the state, defines the structure of government, and guarantees universal rights and liberties to its citizens.
- **Legislative Jurisdiction:** The Riigikogu (Estonian Parliament) is the supreme legislative body responsible for enacting laws and statutes. Legislation covers a wide range of areas, including civil, criminal, commercial, and administrative law.
- **Executive Jurisdiction:** The executive power of the government is responsible for implementing and enforcing laws. This includes various ministries, government agencies, and other administrative bodies.
- **Judicial Jurisdiction:** The judiciary is an independent body which ensures the interpretation and application of laws. Estonia's court system includes district courts, circuit courts, and the Supreme Court. Additionally, specialized administrative and constitutional courts address specific legal matters.
- **Local Jurisdiction:** Local governments in Estonia have certain powers and responsibilities, particularly in areas such as local governance, education, and social welfare. Local governments operate within the framework of national laws.
- **European Union Jurisdiction:** As a member of the European Union, Estonia is also subject to EU laws and regulations. EU law has a significant impact on various aspects of Estonia's legal system, including trade, competition, and consumer protection.

ESTONIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Estonia is well-recognized for its corporate-friendly business environment and digital infrastructure, making it an attractive location for startups.

In accordance with Estonian legislation, the following company classifications are available: general partnership, limited partnership, private limited company, public limited company, or commercial association. The detailed requirements and definitions of corporate structures in Estonia are described in the Commercial Code. The most common corporate structure used for startups in Estonia is Private Limited Company (Osaühing or "OÜ").

Corporate structures differ from each other mainly in terms of the following features:

- the amount of the required share capital;
- the principles of the liability;
- management bodies and decision-making processes of the company, right of representation;
- ease of organizing daily activities (e.g. accounting requirements);

Private Limited Companies (OÜ – Osaühing)

A private limited company is a company that has share capital divided into private limited company shares. This is by far the most common corporate structure in Estonia, as it offers limited liability protection for shareholders, without putting their personal assets at risk.

An OÜ has no mandatory minimum required share capital (though technically the minimum capital must be at least EUR 0.01), which gives the founders the freedom to decide on the share capital based on their planned activities and the actual needs of the company. Since February 1, 2023, there has been no mandatory minimum share capital requirement for private limited companies (OÜ) in Estonia, whereas before that date it was 2,500 euros.

A private limited company may be founded by one or several natural or legal persons. The mandatory management body of a private limited company is the management board. A supervisory board is mandatory only if this requirement is specified in the articles of association of the company. The highest management level of a limited liability company is the meeting of shareholders. Shareholders can also hold management positions. Setting up an OÜ can be done electronically or through a notary. The process usually takes no longer than one working week provided all required documentation is complete.

Public Limited Companies (AS – Aktsiaselts)

A public limited company is designed for larger businesses, particularly those seeking to raise capital through public offerings or engage in more complex business operations. A public limited company has the capital requirement of at least 25 000 euros.

A public limited company may be founded by one or several natural or legal persons. Like private limited companies, the shareholders of an AS are not personally responsible for the company's obligations. However, a public limited company can offer its shares to the public, enabling it to raise capital from a wide range of investors, which is why a public limited company is a subject to more strict regulatory requirements. The highest governing body of the AS is the general meeting of shareholders. Having a management board and a supervisory board is also mandatory in case of public limited companies. Additionally, a public limited company must appoint an auditor. The AS can be registered only through a notary.

Both corporate structures offer distinct advantages and requirements, allowing businesses in Estonia to choose the one that aligns with their size, goals, and capital needs. It's essential to adhere to the legal processes and requirements to ensure smooth establishment and operation of the chosen corporate entity.

ESTONIA

ENTERING THE COUNTRY

In Estonia, foreign and domestic investments are generally treated equally and there is no restriction to foreign nationals for management or supervisory board membership or shareholding in Estonian companies. However, in 2023, Estonia adopted the Foreign Investment Reliability Assessment Act. The purpose of this Act is to secure the Estonian nation against foreign investments or activities that may have an impact on sensitive areas of importance to the national security and public order. The Act focuses on evaluating the reliability of foreign investors and the potential impact of their investments on national security, public order, and vital economic interests.

Under this act, foreign investors, who are under the control of non-EU country citizens, looking to enter Estonia should be prepared for a thorough assessment process, if investing into sensitive sectors. This assessment aims to ensure that the investment aligns with Estonia's strategic objectives and does not threaten any essential sectors as defined in Foreign Investment Reliability Assessment Act and providers of vital services.

Additionally, foreign investors must comply with all sector-specific regulations and restrictions, including but not limited to those in financial services, telecommunications, energy, and defense sectors. Maintaining open communication and cooperation with relevant authorities is crucial throughout the investment journey. The foreign investment permit is issued by the Consumer Protection and Technical Regulatory Authority, having previously coordinated it with the Foreign Investment Committee. This committee consists of representatives of various ministries and other government agencies, including security authorities. A foreign investment permit is not granted if it threatens the security or public order of Estonia or another member state of the European Union.

In conclusion, entering Estonia as a foreign investor requires careful consideration of the Foreign Investment Reliability Assessment Act and sector-specific regulations. By following these rules, conducting thorough due diligence, and maintaining proactive communication with local authorities throughout the investment process, foreign investors can navigate the investment landscape successfully, thereby helping to diversify the Estonian economy, open new export markets, and bring new knowledge and jobs to Estonia.

INTELLECTUAL PROPERTY

Estonia provides a robust framework for intellectual property registration and protection, covering trademarks, patents, copyrights, industrial designs, utility models, and trade secrets. IP can be registered and protected through various means.

The main types of registrable IP and their registration methods are:

Trademarks

Object of protection - you can protect the following trademark types: word mark; figurative mark; shape mark; position mark; pattern mark; color mark; sound mark; motion mark; multimedia mark; hologram mark.

The following marks are not eligible for registration: signs which indicate the characteristics of goods or services and which are indistinguishable; signs which have become customary in the particular field of activity or in general business practice; signs which are of such nature as to mislead the consumer; genuine and ordinary images of products or packages; images or symbols widely used in the service area; signs which are contrary to public order or accepted principles of morality.

The scope and duration of legal protection of a trademark is determined by which trademark you have registered for which goods and services. Firstly, the chosen sign must be distinctive and available. The protection conferred by trademark law offers its owner a monopoly of use for a period of 10 years since the filing date of the application for registration. The term of legal protection of a trademark may be renewed at the request of the proprietor for ten years at a time. The owner of a registered trademark is obliged to use it to designate the goods and services indicated in the registration. If the trademark is not used within five years without a valid reason, an interested person may challenge the exclusive right to this trademark.

INTELLECTUAL PROPERTY, CONT'D

Trademarks, cont'd

How to obtain protection & associated costs – Trademark applications can be filed either with (i) the Estonian Patent Office for national protection, (ii) the European Union Intellectual Property Office (EUIPO) for unitary protection in the EU or (iii) by designating Estonia in the application for international registration under the Madrid System through the World Intellectual Property Organization (WIPO) in which Estonia is a party.

In order to obtain legal protection nationally in Estonia, an application for trademark registration must be submitted to the Patent Office in Estonian. The application can be submitted electronically through the e-services of the Patent Office or by filling out the trademark registration application form, which can be printed out and brought or sent to the reception of the Patent Office. The amount of the state fee to be paid depends on the number of classes of goods and services in which the applicant wishes to protect the trademark. There is a state fee of EUR 145 for one class of goods or services and an additional fee of 45 EUR must be paid for each additional class. You can carry out the procedures of registering trademarks yourself or through patent attorneys. Persons whose place of residence, seat, or operating commercial or industrial company is not in Estonia must appoint a patent attorney as their representative, except for only filing the application.

Please note that there are also some fees related to processing of the trademark application, which are only paid if necessary. For example, for the transfer of an application for registration of a trademark to another owner, the fee is 32 EUR.

In Estonia, inventions can be protected with a patent or a utility model.

Patents

Object of protection – An invention can be protected with a patent. An invention is patentable if it is new, involves an inventive step, and is susceptible to industrial application. An invention is considered to be new if it does not form part of the state of the art. The state of the art is held to comprise all the technical information made available to the public by means of written or oral description, by use, or in any other way, in any part of the world before the filing date of a patent application. An invention is considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. An invention is considered susceptible to industrial application if it can be manufactured or used in the economy.

The object of the invention may be a device, a method, a substance and/or a combination thereof. The Estonian Patent Office verifies the novelty, inventive step, and industrial applicability of an invention in order to determine its patentability. Computer algorithms or programs, scientific theories, plans of economic and thought activities, rules and methods, building and land design, etc. are not the object of an invention.

How to obtain protection – In order to register a patent, it is necessary to submit a patent application to The Estonian Patent Office in Estonian. When applying for a patent, the following key documents must be submitted: patent application; description of the invention, in which the invention must be disclosed in a sufficiently clear and concise manner which enables a person skilled in the art to make the invention; patent claim; drawing or other illustration, if applicable; short summary of the nature of the invention.
Documents related to a patent application must also be submitted in Estonian. Related documents can be submitted in a foreign language if the patent applicant submits a translation into Estonian within a specified time limit. The requirements for drawing up and finalizing documents are presented in the legal act "Content and Formal Requirements for Patent Application and Procedures for Submission to the Patent Office".

A person whose residence or location is outside the Republic of Estonia may file a patent application themselves or using a patent attorney; further proceedings related to the patent application procedure are conducted only via the patent attorney.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

The scope, cost, and duration of protection – The date on which the application arrives at the Patent Office is considered its filing date. The patent application is published in the Estonian Patent Gazette 18 months after the filing of the patent application. The state fee for filing a patent application has to be paid no later than two months from the date the patent application was filed.

The fee for filing an application is EUR 225. If the patent claim consists of more than ten clauses, an additional payment of EUR 13 per clause must be paid from clause 11 onwards. The registration of inventions in the patent register is subject to the payment of a fee of EUR 96. The patent shall be valid for 20 years in the Republic of Estonia. To maintain the validity of the patent application and patent, it is necessary to pay a state fee for each year of validity. State fees for maintaining the validity of a patent application, patent, and European patent can be found on the website of the Patent Office. Please note that there are also some fees related to processing of the application, which are only paid if necessary. For example, the fee for the issue of documents certifying priority or priority claim, is 16 EUR.

Utility Models

Registrations for utility models are processed more quickly and economically than patents and require a lower standard of inventive step. However, utility models only provide up to protection for a period of ten years and are not suitable for protecting a complex invention.

How to obtain protection – Applications for registering a utility model are also submitted to The Estonian Patent Office. When applying for the registration of a utility model, the following basic documents must be provided: request for the registration of a utility model; description of the invention, in which the invention must be disclosed in a sufficiently clear and concise manner which enables a person skilled in the art to make the invention; the claims of the utility model; a drawing if necessary; an abstract of the invention in Estonian and English. The registration application is submitted in Estonian. The name of the invention in the registration application of the utility model and the abstract describing the invention must be in both Estonian and English.

The applicant must guarantee that the utility model meets the criteria of novelty and level of inventiveness. The Estonian Patent Office will still carry out a state-of-the-art search and forward the search report to the applicant. Based on the search report, the applicant may implement improvements and changes within two months from the release of the report, however, this is not obligatory.

Duration of protection & associated costs – The sum of the state fee in the case of a natural person or solely natural persons is EUR 26, whereas in the case of a legal person, a state fee in the sum of EUR 105 must be paid. The registration of a utility model is valid for four years from the date that the application was submitted. It is possible to extend the validation of the registration for four years, and an additional two years thereafter. It is necessary to pay a state fee for the extension of the registration. Please note that there are also some fees related to processing of the application, which are only paid if necessary. For example, for the issue of documents certifying priority or priority claim, the state fee is 16 EUR.

Industrial Designs

Object of protection – Industrial designs can also be registered with the Estonian Patent Office, offering protection to the visual appearance of a product. Industrial design pertains to a two or three-dimensional exterior design of a product, which can be formed, either separately or in combination, from the shape, configuration, ornamentation, colours, texture, and material. It is also possible to register an exterior design of a product as an industrial design, but a two-dimensional exterior design, e.g. a pattern of a cloth, design of a website, a logo etc., can also be protected.

The industrial design must be new and distinguishable and based on the ability to be produced industrially or artisanally. It is possible to file for protection for one industrial design, its variants or a set of industrial designs.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs, cont'd

How to obtain protection – An application must be submitted to the Estonian Patent Office along with the reproductions of the industrial design. The application can be submitted online. Therefore, documents to be included with the application for registration are the following: industrial design registration application; reproduction of the industrial design; power of attorney, if the applicants have chosen a common representative and not all applicants have signed the application; supporting documents of the declaration of priority, in cases where the priority is being applied for.

Fees and duration of protection – For a registration of an industrial design to be assessed, a state fee in the sum of EUR 105 must be paid if submitted by a legal person. For applications containing variants of an industrial design, an additional fee of EUR 26 must be paid for each subsequent variant starting from the third variant.

Procedures relating to the registration of an industrial design can be performed by the applicant or a patent attorney. A person with no residence, seat, or commercial or industrial enterprise operating in Estonia must authorize a patent attorney as a representative, except when applying for the registration.

The rights of the owner of a registered industrial design are valid for five years. This validity can be extended for a period of five years, every five years, for a total period of 25 years by paying a fee.

It is important to note that when applying for the legal protection of an industrial design, a formal registration system is used in Estonia. This means that the Estonian Patent Office examines the compliance of any formal requirements when registering an industrial design, but does not examine the industrial design as to its novelty, individual character, industrial or handicraft applicability, nor that the person filing the application has the right to do so. The applicant is responsible for compliance with these requirements.

The main types of non-registrable IP in Estonia are the following:

Copyright

Object of protection – Pursuant to the Copyright Act, "works protected by copyright" means any original results in the literary, artistic, or scientific domain which are expressed in an objective form and can be perceived and reproduced in this form either directly or by means of technical devices. A work is original if it is the author's own intellectual creation. A non-exhaustive list of works is also provided in the Copyright Act.

How to obtain protection – Copyright protection is granted automatically upon the creation of an original work, such as literary, artistic, musical, or software creations. Copyright applies without any official registration or formalities. Although registration is not required, it can serve as evidence in case of disputes.

Duration of protection – copyright generally applies during the author's lifetime and for 70 years after their death.

INTELLECTUAL PROPERTY, CONT'D

Copyright, cont'd

The substance of protection – The author of a work is guaranteed a number of moral and economic rights. The moral rights of an author are inseparable from the author's person and non-transferable (though licensable). The economic rights of an author are licensable, transferable as single rights or a set of rights for a charge or free of charge.

For example, the author has the moral right of authorship, right of author's name, right of integrity of the work, right of disclosure of the work, etc. The author also has the economic right of reproduction, distribution, alteration, public performance, and communication of the work, the right of making the work available on the Internet, etc.

Use of the object of rights may, within certain limits, take place without permission and payment of a fee. These are the so-called "free use" cases set out in Chapter IV of the Estonian Copyright Act.

In general, the moral and economic rights of the author belong to the author of the work. Legal entities own copyrights only in the cases prescribed by law, employment relationships being one such case. The author of a work created under an employment contract in the execution of their duties shall enjoy copyright in the work, but the economic rights of the author to use the work for the purpose and to the extent prescribed by the duties shall be transferred to the employer unless otherwise prescribed by contract.

Trade Secrets

What is protectable – Trade secret regulation is set forth in the Restriction of Unfair Competition and Protection of Business Secrets Act, according to which a trade secret is information that meets the following requirements: (i) it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question (ii) it has commercial value because it is secret; (iii) it has been subject to reasonable measures under the circumstances, by the person lawfully in control of the information, to keep it secret. If the aforementioned criteria are met, the trade secret is protected automatically.

Unlawful acquisition, use and disclosure of business secrets – The acquisition of a business secret without the consent of the person lawfully in control of it is unlawful if such acquisition involves: unauthorized access to, appropriation of, or copying of any documents, objects, materials, substances or electronic files, under the control of the person lawfully in control of the business secret, containing the business secret or from which the business secret can be deduced; or any other actions which, under the circumstances, are deemed contrary to honest commercial practices.

Duration of protection – Trade secrets in Estonia do not have a set term of protection. Instead, they are protected as long as they remain confidential and not generally known or easily accessible to the public. If a trade secret becomes widely known or easily accessible to the public, it can no longer be considered a trade secret and is no longer protected.

INTELLECTUAL PROPERTY, CONT'D

Type of IP	Object of Protection	How to Obtain Protection	Duration & Costs
Trademarks	Word marks, figurative marks, shape marks, position marks, pattern marks, colour marks, sound marks, motion marks, multimedia marks, hologram marks.	Application to the Estonian Patent Office (national), EUIPO (EU-wide), or WIPO (international).	Protection lasts 10 years, renewable in 10-year periods. Initial state fee: EUR 145 for one class, EUR 45 per additional class.
Patents	Inventions that are new, involve an inventive step, and are industrially applicable.	Application to the Estonian Patent Office, including description, claims, and relevant documents.	Valid for 20 years. Filing fee: EUR 225 + EUR 13 per claim over 10. Annual maintenance fees apply.
Utility Models	Technical inventions with lower inventive step requirements than patents.	Application to the Estonian Patent Office with required documentation.	Valid for 4 years, extendable to 10 years. Fee: EUR 26 (natural persons), EUR 105 (legal persons).
Industrial Designs	The visual appearance of a product, including shape, ornamentation, colours, texture, and material.	Application to the Estonian Patent Office with reproductions of the design.	Valid for 5 years, renewable in 5-year increments up to 25 years. Fee: EUR 105 (legal persons), EUR 26 per variant from the third variant onwards.
Copyright	Original literary, artistic, musical, and scientific and other works.	Automatic protection upon creation; no registration required.	Valid for the author's lifetime + 70 years.
Trade Secrets	Confidential business information with commercial value.	Protection is automatic if secrecy is maintained.	No set term; protection lasts as long as secrecy is preserved.

ESTONIA

DATA PROTECTION / PRIVACY

Legal Framework

The primary legislation is the GDPR, which sets out the rules for the processing of personal data within the EU, including Estonia.

Estonia implemented the GDPR in 2018 through the Personal Data Protection Act (PDPA), which is closely aligned with the GDPR and does not derogate from it in areas such as the appointment of a data protection officer, data breach notification, or data subject rights. Though, the PDPA contains certain supplementary provisions.

For example, it specifies the age of consent for the processing of children's personal data for the provision of information society services – it states that the consent of a data subject remains valid for ten years after death and 20 years if the data subject was a minor and regulates the protection of natural persons when personal data is processed by law enforcement authorities in relation to the prevention, detection and prosecution of offences and execution of punishments.

In addition to GDPR and the PDPA, Estonia does not have specific national laws or regulations that would complement and specify certain aspects of data protection. Though, privacy, data protection, and cybersecurity-related rules are also found in some other legal acts, such as the Public Information Act and the Cybersecurity Act.

The Estonian Constitution sets out a fundamental right to privacy (eg, everyone has the right to the inviolability of private and family life).

Data Protection Authority

The Estonian Data Protection Inspectorate (DPI) is the national supervisory authority responsible for enforcing data protection laws in Estonia. The DPI exercises state and administrative supervision over compliance with the requirements set out in: (i) the PDPA and legislation established on the basis thereof; (ii) the GDPR; and (iii) other acts that govern the processing of personal data.

The Inspectorate makes sure that people's personal data is sufficiently protected and also ensures that information on the activity of institutions (public information) is sufficiently available. The right to the protection of personal data and the right to public information are also constitutional rights in Estonia.

In exercising such state supervision, the DPI may implement the measures provided for in Article 58 of the GDPR. In addition, the DPI may make enquiries of electronic communications undertakings to obtain the data required to identify an end user from the identification tokens used in public electronic communications networks, except for data relating to the transmission of messages, if it is impossible to identify the end user in any other way.

To date, the DPI has issued warnings with the potential for fines for non-compliance which relate to, for instance, video surveillance, the DPI's request for information, and the right to rectification. Furthermore, the DPI has issued guidance on automated decision-making, video surveillance, and the main responsibilities of data controllers.

DATA PROTECTION / PRIVACY, CONT'D

Special Regimes in Specific Sectors

In regard to financial privacy, the Credit Institutions Act sets out certain rules on information that is subject to banking secrecy and imposes certain restrictions on the rights of data subjects. For example, in case of the processing of personal data for the purpose of preventing payment fraud and market abuse.

The Money Laundering and Terrorist Financing Prevention Act also imposes certain limitations on the rights of data subjects. For example, in the context of cooperation and information exchange for anti-money laundering purposes between obliged persons.

From January 2026, amendments to Estonia's Cybersecurity Act took effect, implementing the EU NIS2 framework and significantly expanding the number of entities subject to mandatory cybersecurity requirements (about 3,000 additional organizations, roughly 6,500 in total). The scope now more clearly covers sectors relevant in Estonia, such as aviation and rail, energy and district heating, ports, finance, cloud and other digital services, healthcare, and, where size thresholds are met, parts of the food, postal, and waste sectors. The obligations focus on systematic risk management, appropriate technical and organizational safeguards, stronger incident detection and response, protection of critical data, and staff training, with clearer management-level accountability and a duty to report significant cyber incidents to national authorities.

Generally, entities are given a 3-year transition period to reach full compliance, but must submit their relevant activity information to the national authorities within 3 months.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Estonia and introducing any AI specific regulations is currently not planned. Therefore, AI regulation aligns with the EU AI Act (as has been the case with the GDPR). However, general restrictions, particularly under data protection and copyright law do apply.

Legal Framework

According to the chief information officer of the Estonian government, "The European Union has proposed a framework for the implementation of responsible artificial intelligence. Estonia aims to build on the EU framework, not to start creating and arguing for it itself."

Accordingly, in May 2019, the government of Estonia signed the Organization for Economic Co-operation and Development's (OECD's) Principles on Artificial Intelligence, which reflected the principles of human-centric and ethical AI development embodied in the EU approach and recommended by the OECD in their Recommendation of the Council on Artificial Intelligence.

In Summary

The national AI strategy relies on boosting AI in the government and in the economy, along with research and development, and the legal environment. In terms of legal environment, according to the Estonian strategic plan for AI, there is no need for fundamental changes to the Estonian legal system. However, to enable the efficient use of AI, certain legislative amendments shall be made in the future.

As part of the national AI plan, Estonia is bringing a government-as-platform approach to boost the uptake of AI in both the public sector and the wider economy. Planned activities include, for example, a public e-course to raise awareness about AI, along with creating sandboxes for testing public sector AI applications. The private sector will have the opportunity to use designated innovation and development grants for developing machine learning based solutions.

As to the start-up scene it is worth noting that AI is one of the main innovation drivers in Estonia and there are currently numerous funding programs (i.e. incubators) for AI-based business models.

ARTIFICIAL INTELLIGENCE, CONT'D

Initiatives
On 27 January 2026, Estonia's government launched the Eesti.ai initiative together with leading entrepreneurs, positioning it as a nationally led programme (developed with international experts and companies) to systematically roll out AI across the Estonian economy and public sector and to build Estonian AI solutions in areas such as industry, education, healthcare, energy/environment, and security.

The near-term priorities are explicitly framed around education, healthcare and security, and the initiative is overseen by an entrepreneur/expert council reporting to the Prime Minister (with figures from Estonia's tech scene involved). The ambition is not just adoption but measurable productivity impact. Government communications cite targets like doubling the value of people's work by 2035 and growing the economy by 25% in five years and 50% in ten years.

EMPLOYEES/CONTRACTORS

When a foreign entity wants to engage workers in Estonia, there are several things which need to be considered.

Employees vs. independent contractors: Work may be performed under various types of contracts, the most prevalent being employment contracts, contracts for services, and authorization agreements. Parties must clearly understand the legal distinction between employees and independent contractors and their respective applicable regulations. In Estonia, the classification of an employee is primarily based on the relationship between the employer and the worker, rather than the type of contract. This means that even if a contract states that a worker is an independent contractor, they may still be classified as an employee under Estonian law.

However, in some cases, distinguishing an employment contract from other service contracts can be complex, and the presumption is in favour of an employment relationship. The Employment Contracts Act in Estonia states that if an individual carries out work for another person that is reasonably expected to be done only for remuneration, it is presumed to be an employment contract. This means that in the event of a dispute, the employer must prove that it is a contract other than an employment contract under the law of obligations. Therefore, it is recommended to give careful consideration regarding which type of contract is most suitable for the legal relationship that will be established.

Concluding the contract: Prior to commencing work, it is compulsory for both the employer and employee to finalize a written employment agreement, unless the duration of the employment is aptly short. This agreement should outline the specific terms and conditions of the employment relationship. Most importantly, the contract should cover aspects such as wages, working hours, job responsibilities, and the designated workplace. The law mandates (and depending on the industry, there may be collective agreements) that certain conditions be communicated in writing by the employer to the employee prior to the commencement of work. Additionally, the employment agreement should include the organizational work policies.

Failing to adhere to this requirement can create difficulties in proving the agreed terms, potentially leading to disputes concerning wages, job responsibilities, and other conditions.

For contractors, as they are not covered by the Employment Contracts Act, the rights and obligations of the parties may vary significantly. Thus, it is important to negotiate the terms carefully, as there are no specific laws that protect the rights of the weaker contracting party.

EMPLOYEES/CONTRACTORS, CONT'D

Employment Permits: If a foreign entity plans to involve employees from outside Estonia, (for example, if it plans to send its own employees to work in Estonia), it must ensure that the employer is registered in the Estonian Business Register, employment by branches or entities not registered in Estonia is not permitted.

Short-time employment in Estonia is permitted to a foreigner who stays legally in Estonia on a temporary basis (for example, on the basis of a visa or visa-free) and whose employment has been registered with the Police and Border Guard Board before the employment commences. Short-term employment can be registered for up to 365 days during a 455-day period.

For longer stays, the foreigner may be issued a residence permit for working pursuant to the Aliens Act. The employer for whom the residence permit is applied must have/had actual business activity at least six months before submission. Employers can prove actual business activity with any evidence including their own explanations and documents such as contracts, annual reports, certificates issued by competent authorities and tax declarations. This residence permit is intended for someone to come to Estonia to work for a specific employer and is initially issued for up to 5 years.

Foreign employers located outside of Estonia can only invite foreigners to work in Estonia in cases of free movement of services or if they are from an EU member state.

Termination of Employment Agreements: In Estonia, employers must have a valid reason for terminating an employee's contract and must provide a written declaration of termination stating the reasons. The notice period for termination must be respected. This period thus varies based on the duration of employment. Acceptable reasons for termination include redundancy, repeated intoxication, breach of working duties or instructions, theft, fraud, or other acts that result in a loss of trust. Violating the terms of the Employment Contracts Act when terminating an employment relationship can lead to substantial compensation claims and further complications. However, when it comes to independent contractors, the contract can be terminated according to the terms set forth by both parties or if the contract breaches any legal regulations, or if there is no valid agreement in place, legal principles will dictate the termination process.

Intellectual property rights in labour relations: In Estonia, intellectual property rights in labour relations are governed primarily by the Estonian Copyright Act. According to this law, the author of a work created under an employment contract in the execution of one's direct work duties shall enjoy copyright in the work, but the economic rights of the author to use the work for the purpose and to the extent prescribed by the work duties shall be transferred to the employer unless otherwise prescribed by contract. An author may use the work created in the execution of his or her direct work duties independently for the purpose prescribed by the work duties only with the prior consent of the employer, whereupon mention must be made of the name of the employer. In such a case, the author is entitled to receive remuneration for the use of the work.

In addition to the regulations in the employment contract, in the case of, for example, more important IT development projects, it may be reasonable to conclude a separate intellectual property agreement with the employee. But when the employee is an independent contractor, it is crucial to have a clear and well-defined agreement in place. This agreement should outline the ownership and rights to any intellectual property created by the independent contractor throughout their work. This is important because, unlike traditional employees, independent contractors usually retain the rights to any intellectual property they create unless specifically specified otherwise in a written agreement. Therefore, without a proper agreement, the company may not have the legal right to use or commercialize the work produced by the independent contractor.

Note: Employment law is a highly intricate and tightly regulated domain; therefore, it is strongly recommended to seek assistance from a local advisor before taking any actions. Failing to comply with regulations may lead to significant financial consequences and reputational damage.

ESTONIA

CONSUMER PROTECTION

General: Estonian Consumer Protection Act (Tarbijakaitseseadus) and the Law of Obligations Act (Võlaõigusseadus) are the primary legislations governing consumer rights and protection in Estonia. The Consumer Protection Act outlines the rights and obligations of consumers and businesses, sets rules for fair business practices and provides measures to ensure these. For example, all traded goods must have Estonian labeling, and technically complex goods must come with a user manual in Estonian.

Consumer Rights include the right to receive accurate and transparent information about products and services, the right to withdraw from distance and off-premises contracts within a specified cooling-off period, and the right to claim compensation for faulty or non-compliant products. The more precise consumer rights are brought out in different legal acts, such as the Advertising Act, Product Safety Act, Electronic Communications Act, Language Act etc.

Estonia has implemented various EU directives concerning consumer protection, such as Consumer Rights Directive (2011/83/EU) and Unfair Commercial Practices Directive (2005/29/EC). The latest substantial implementations were made in 2022. The changes included, for example, the extension of the burden of proof term in favor of the consumer from six months to one year, meaning that the defect, which appears within one year of the handing over of the product to the consumer, was present at the time of handing it over. Also, the scope of mandatory trader notifications was expanded – the consumer must be informed about the functionality, compatibility and interoperability of the digital content and service. In the event of a one-time transfer or provision of digital content or a digital service, for example when purchasing a computer program, the entrepreneur is liable for a defect that existed at the time of its transfer or provision and that appears within two years. It is important that digital content and services do not only have to meet the terms of the contract at the time of their initial transfer, but the trader has the obligation to provide regular updates as reasonably necessary to maintain compliance with the terms of the contract.

Regulators: The Consumer Protection and Technical Regulatory Authority (TTJA) manages safety and market regulations, checks compliance with legal obligations and settles customer disputes. TTJA has the authority to conduct state supervision of electronic communications, media services, rail transport and the safety of work, equipment and products, buildings, infrastructure and energy efficiency in addition to consumer rights.

In the event of a dispute with the trader, the consumer has the right to turn to the Consumer Disputes Committee. The Committee is an independent and impartial body competent to resolve consumer disputes, both domestic and cross-border ones, which are initiated by a consumer and one of the parties to the dispute is a trader whose place of establishment is in the Republic of Estonia. Compared to court proceedings, the Committee provides an expedited and cost-effective alternative dispute resolution mechanism compared to traditional court proceedings.

Standard Terms: Usually, the consumer contract is concluded using standard terms, which the trader has drafted in advance and the consumer cannot influence the content of them. It is presumed that standard terms have not been negotiated individually in advance. Standard terms are part of the consumer contract if the trader clearly refers to them as part of the contract before or while entering into the contract and the consumer has the opportunity to examine their contents.

Standard terms and conditions can cover various essential aspects that affect the relationship between the consumer and the trader, for example limitation of liability, payment and delivery conditions, right of withdrawal and return conditions, as well as data protection and dispute resolution procedures. A standard term is void if, considering the nature, contents and manner of entry into the contract, the interests of the parties etc., the term causes unfair harm to the other party, particularly if it causes a significant imbalance between the parties. The Act of Obligations stipulates the specific cases where a standard term is usually considered to be unfair.

CONSUMER PROTECTION, CONT'D

Pricing: Generally, when offering and selling goods to the consumer, the trader must inform the consumer about the selling price and the unit price of the goods. The selling price means the final price to be paid by the consumer for a unit of goods or a quantity of goods. The final price includes value added tax and other taxes related to the sale of goods.

Any announcement of a price reduction must indicate the price preceding the reduction, i.e. the lowest price applied during the 30 days preceding the reduction. In the case of a reduction in the price of goods offered for less than 30 days, the prior price is the lowest price applied to the goods for at least seven days before the price reduction.

Withdrawal: There are differences in the cancellation policy for each type of contract. Therefore, before deciding to withdraw, it is mandatory to check the rights and the corresponding provisions in the respective agreement. If the contract is signed by ordering from the catalog, by telephone or at an event or in the lobby of the shopping center, a 14-day right of withdrawal applies. In case of signing the deal at a company's premises, there is no right of withdrawal.

If the online trader does not inform the customer of the right of withdrawal within 14 days of the purchase, the time period of withdrawal automatically extends up to 12 months. The 14-day return policy does not apply, among other things, to: goods manufactured to customer's personal needs, or which are perishable/outdated; to magazines, audio and video recordings and computer software, if the consumer has opened the package; sealed items that cannot be returned for health or hygiene reasons, if the package is opened after delivery; entertainment and travel services. If the products ordered over the Internet happen to be defective, the complaint to the seller must be lodged within two years of receiving the product.

TERMS OF SERVICE

The mandatory information required in online Terms of Service differs depending on whether they are intended for a professional or a consumer. Terms of service in regard to contracts entered into with consumers are mainly regulated by two acts – the aforementioned Consumer Protection Act which sets forth the right of consumers to obtain information as well as the Law of Obligations Act to further clarify the obligations of the trader.

Traders are required to provide consumers information concerning the characteristics and conditions of use of the goods or services as well as the contract to be entered into for acquiring the goods or using the services pursuant to the procedure corresponding to the obligation to provide precontractual information. Furthermore, contracts concluded online are regarded as distance contracts according to the Law of Obligations Act. This adds additional requirements in addition to the ones set forth regarding precontractual information. Therefore, information that must be included is the following:

- the data which enables the identification of the trader, in particular the trader's business name, the address of the place of business of the trader, their telephone number and email address, and (if applicable) where the trader provides other means of online communication which ensure that the consumer has the opportunity to maintain correspondence with the trader on a durable medium;
- the main characteristics of the object of contract to the extent appropriate to the object of contract and the manner of presentation of information;
- in the case of digital content, digital service and things with digital elements, the method of use thereof, the technical protective measures applied to it and compatibility thereof with any hardware and software of which the trader knows or reasonably should know;
- the total price of the object of contract inclusive of taxes, or where the nature of the object of the contract is such that the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated. Furthermore, all additional freight, postal or other delivery costs, if the consumer has to cover these costs as well as information on that such additional costs may be payable;

TERMS OF SERVICE, CONT'D

- where appropriate, information about that the price was adjusted on a personal basis in accordance with a decision based on automated processing;
- The arrangements for payment, delivery and execution of an order, including the timeframes for delivery of goods, provision of services, or performance of other contractual obligations;
- For long-term contracts the minimum duration of the consumer's obligations under the contract, or if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract;
- upon offering maintenance services for the contracted goods or services, or customer service following contract performance, the existence and the terms and conditions thereof;
- where an additional warranty is granted beyond the legal remedies provided by law, the existence and terms and conditions thereof;
- a reminder that the consumer can rely, upon non-compliance of an immovable, digital content and digital service with the terms and conditions of the contract, on the legal remedies provided by law;
- the procedure for handling complaints implemented by the trader, where such procedure has been established.
- the address of the place of business of the trader where the consumer can address complaints, if different from the address of the place of business.
- the information on the possibilities of the consumer to have recourse to a body settling extra-judicial complaints and disputes and the terms and conditions of recourse.

A consumer may withdraw from a distance contract within 14 days without giving any reason, unless there are statutory exceptions to the right of withdrawal. Therefore, the trader is required to provide:

- Where a right of withdrawal exists, conditions, the time limit and procedures for exercising that right as well as a standard form of application for withdrawal. If the trader has violated the obligation to provide this information, the withdrawal period shall expire in 12 months;
- the fact that if the consumer withdraws from the contract, the consumer shall bear the costs of returning the goods that constituted the object of the contract;
- where a right of withdrawal is not prescribed, the information that the consumer has no right of withdrawal or, if the consumer may lose the right of withdrawal, information about the circumstances under which the right of withdrawal will be lost.

All information specified in the preceding sections must be provided before the consumer enters into the contract or makes a binding offer, in a manner which is clear and comprehensible for the consumer, except where such information is already apparent from the context. The Consumer Protection Act also sets forth that information provided to a consumer shall be in Estonian unless the consumer has agreed to provision of information in another language.

ESTONIA

TAX/FUNDING

Tax

In Estonia, income tax is currently paid only upon distribution of profits (e.g., dividends) or when equivalent payments (transfer prices, payments unrelated to business, costs of entertaining guests, fringe benefits) are made by resident legal entities. The corporate tax rate is a flat 22%, calculated as 22/78 of the taxable net payment (equivalent to a 22% rate on the gross amount). The period of taxation is the calendar month.

In turn, undistributed profits of legal entities are not generally taxed. Therefore, the Estonian corporate income tax system differs from the tax systems of other countries in the sense that tax liability is transferred from the moment the profit is made to the time it is distributed.

Tax Changes

The previously proposed temporary security tax for January 1. 2026 to December 31. 2028 will not be implemented. Instead of introducing a separate security tax, Estonia has retained its existing income tax system. As of January 1. 2026, the flat income tax rate applicable to both resident natural person and distributed corporate profits remain at 22%.

Exceptions

Dividends received from a legal entity located in an EEA Member State or Switzerland are not subject to income tax upon further distribution if at least 10% of the shares or votes of this legal entity belong to an Estonian legal entity. Further distribution of dividends received from a third company is also not taxable if the Estonian legal entity owns at least 10% of the shares or votes in this legal entity and income tax has been withheld from the dividends in this third country.

Fringe Benefits and Expenses Not Related to Business

Employers operating in Estonia are obliged to pay taxes on fringe benefits paid to their employees/ members of the management board/long-term contractual workers. Fringe benefits are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to a person. Fringe benefits are subject to income tax of 22% (the tax rate on the net amount is 22/78) and social tax of 33% (social tax is levied on an amount that includes the value of the fringe benefit and the income tax calculated on this amount).

Expenses not related to the legal entity's business are subject to income tax of 22% (the tax rate on the net amount will be 22/78).

Gifts, Donations, and Entertainment Costs

Legal entities resident in Estonia who give gifts, donate or incur expenses related to the entertainment of guests must pay income tax at the rate of 22/78. However, there are certain exceptions, and Estonian legal entities can donate money and transfer goods tax-free to certain non-profit organizations and foundations. When donating to specific non-profit associations and foundations, legal entities can choose between two tax exempt limit values, either: 1) 3% of the wages paid or; 2) 10% of the profit for the previous financial year.

Transfer Pricing

If the value of a transaction between a resident legal entity and a related legal entity differs from the value of similar transactions between unrelated legal entities, the tax authority may base the assessment of income tax on the value of transactions applied by unrelated legal entities under similar conditions. The Estonian Tax and Customs Board may at any time request additional documents from the legal entity regarding the structure of transactions with related parties. The tax authorities generally require submission of necessary documentation within 60 calendar days of the request.

TAX/FUNDING, CONT'D

Tax, cont'd

Other Distributions

Income tax should be paid by resident legal entities upon reduction of the share capital or contributions, upon redemption or return of shares or contributions, or on any other payouts which exceed the monetary and non-monetary contributions made to the equity of the company.

Exit Tax

Income tax is levied on the difference between the market value and the balance sheet value of assets taken out of Estonia at the time of exit, if an Estonian resident legal entity transfers these assets to a permanent establishment in another Member State of EU or a third country.

Controlled Foreign Companies

A controlled foreign company is a non-resident legal entity in which Estonian resident legal entity, alone or together with its related persons, owns more than 50% of the voting rights or capital, or has the right to receive more than 50% of the profits. In Estonia, income tax is levied on the non-distributed income of a controlled foreign company (CFC) arising from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage. This rule is not applicable in case the CFC's accounting profits do not exceed EUR 750 000, and non-trading income does not exceed EUR 75 000.

Thin Capitalisation

Thin capitalisation rules apply when borrowing costs are excessive. Borrowing costs are considered excessive if they exceed EUR 3 million in a single financial year and 30% of the interest, tax and profit before depreciation. The exceeding part is subject to income tax of 22% (the tax rate on the net amount will be 22/78).

Personal Taxation

A flat tax rate of 22% applies to all items of income derived by a resident natural person. The period of taxation is the calendar year.

Taxable Income

Taxable income of a resident natural person consists of: 1) income from employment; 2) business income (i.e., self-employed income); 3) gains from transfer of property; 4) rental income and royalties; 5) interest; 6) dividends (if not yet taxed at the company´s level); 7) pensions, scholarships and grants, benefits, awards and gambling winnings; 8) insurance indemnities and payments from pension funds.

Deductions From Income

The following deductions are available to resident natural persons from their income: 1) training/educational expenses; 2) gifts and donations made to specific non-profit associations and foundations; 3) contributions to the supplementary funded pension.

Table of Basic Exemption

There is a basic tax exemption for resident natural persons in amount of 8400 euros per year (i.e., 700 euros in a month). The basic exemption no longer depends on a persons income and does not decrease as income increases. Employers calculate basic exemption on the basis of a written application.

Social Security Tax

Employers operating in Estonia pay social security tax at a rate of 33% (13% is used for financing public health insurance and 20% for public pension insurance) on the employee's gross earnings. The social security tax must be paid on wages as well as on fringe benefits. The period of taxation is a calendar month. From the 1 of April 2026 the minimum monthly wage for full-time work is 946 euros and the minimum hourly wage is 5.67 euros.

TAX/FUNDING, CONT'D

Tax, cont'd

Value-Added Tax
The standard VAT rate is 24% of the taxable value of the goods or services.

VAT Rate of 13%
A reduced rate of 13% is applied to accommodation services or accommodation services with breakfast.

VAT Rate of 9%
The VAT rate on 1) press publications (both on a physical medium and published electronically), 2) books and educational literature (both on a physical medium and electronically), 3) medicinal products is 9%.

VAT Exemption with Right of Input VAT Deduction and with No Right of Input VAT Deduction
The VAT rate of 0% (i.e., exemption with right of input VAT deduction) applies to exports, the intra-community supply of goods, certain supplies of services. Some other services are exempt with no right of input VAT deduction. For example, universal postal services, health services, service provided by dental technicians, insurance services, certain financial services, etc.

The obligation to register for VAT purposes arises when a person's taxable supply exceeds 40,000 euros as calculated from the beginning of a year. The taxable period is one calendar month. The deadline for submitting a VAT return is the 20th day of the month following the taxable period.

Land Tax Liability
Changes to the land tax act entered into force in January 2026. A land tax notice is issued to the person registered in the land register as the owner holder of a right superficies or usufructuary of the immovable property. If the property has been inherited the tax notice is issued to the successor according to the data in the succession register.

The obligation to pay land tax arises if the total amount of land tax for land located within the territory of one local government is at least 5 euros.

Excise Duty on Alcohol and Tobacco
A person becomes liable for excise duty when alcohol or tobacco products are released for consumption. This includes situations where alcohol or tobacco products are bought into Estonia without excise duty suspension arrangements or where they are moved from an excise suspension arrangement to a regular warehouse or retail store.

Excise duty on alcohol or tobacco products produced in Estonia is paid by the excise warehouse keeper. For alcohol or tobacco products transported to Estonia from another member state the excise duty is paid by the excise warehouse keeper, a registered consignee or the recipient of the goods. In the case of importation from outside of the European Union the excise duty is paid by the importer.
Excise duty on alcohol and tobacco will raise 5% also in 2027 and 2028.

TAX/FUNDING, CONT'D

Funding

Estonia offers various funding opportunities for both local and international entrepreneurs. Here is the list of supporters:

Enterprise Estonia (EAS)
This national foundation provides a wide range of grants aimed at fostering business development, innovation, and export activities. Their programs cater to various sectors and business sizes. Furthermore, they offer practical training, workshops, and financial support. Additionally, this agency assists startups in scaling their operations. Their initiatives are designed to nurture innovative ideas and facilitate market entry. More information at https://eis.ee/en/.

Startup Estonia
A governmental initiative that provides access to a vibrant startup ecosystem and various support services. Additionally, it offers the Startup Visa program, enabling non-EU founders to establish and grow their startups in Estonia. Find out more about the eligibility criteria and application process here: https://startupestonia.ee/.

Estonian Chamber of Commerce and Industry
The Estonian Chamber of Commerce and Industry offers various services, such as consulting and networking activities to support business activities. For further information, visit their webpage: https://www.koda.ee/en.

WHAT ELSE?

Cryptocurrency Regulation in Estonia

Cryptocurrencies, services related to virtual currencies and coin offerings are legal in Estonia. The current regulatory framework provides significant flexibility and relies strongly on analogy to the rules on classical assets and securities. Cryptocurrency exchange wallet services, transfer services and organisation, in the name or on behalf of an issuer of virtual currency, of a public or targeted offering or sale related to the issue of virtual currency are subject to licensing and supervision by the Estonian Financial Supervision and Resolution Authority.

Offering of security tokens may trigger the requirement to register as an investment firm, and a public offering is treated as a public offering of securities, overseen by the Financial Supervision Authority. For tax and accounting purposes, cryptocurrencies are considered intangible assets or inventory. The regulation is likely to become more complex and fluent in the future, as the market gains more experience, and different countries adopt legislative measures.

The Markets in Crypto-Assets Regulation (MiCA) institutes uniform EU market rules for crypto-assets and is directly applicable in Estonia. In 2024, the Estonian Market in Crypto-Assets Act (available at: https://www.riigiteataja.ee/en/eli/519092024001/consolide) was published. The Act is relatively new, and like most nascent regulatory frameworks, it will almost certainly evolve over time. The legal interpretation of the Act will likely evolve as courts and regulatory bodies gain experience in handling disputes and issues in this sector.

The Act's purpose is to implement MiCA on the Estonian national level and to fill the gaps where the EU countries have been given discretionary power according to MiCA. The Act mainly focuses on regulating the activities, liability, dissolution, and supervision of participants in crypto-asset markets, specifying and supplementing the provisions contained in MiCA and DORA.

WHAT ELSE?, CONT'D

Cryptocurrency Regulation in Estonia, CONT'D

Therefore, The Act:

1. Sets forth Requirements for a participant in the crypto-asset market and their activities;
2. Regulates the activities of a crypto-asset market participant in a third country and the activities of a contracting state's crypto-asset market participant in Estonia;
3. Regulates the ownership requirements of companies that are crypto-asset service providers (i.e. prohibition on acquiring, increasing, and becoming a controlled undertaking with significant participation, and the consequences of illegal acquisition of participation);
4. Sets forth rules for accounting, reporting, and audit supervision;
5. Sets forth rules for reorganization, merger, termination, and bankruptcy of a crypto-asset service providers and issuers of asset-based tokens.
6. Specifies supervision over service providers as well as liability.

Cryptocurrency Taxation

From 2026 onwards the Estonian Tax and Customs Board will receive more extensive information on cryptocurrency transactions under international information exchange agreements. Estonia will implement the DAC8/CARF crypto-asset tax reporting framework, meaning the Estonian Tax and Customs Board (EMTA) will receive much broader data on crypto-asset trading from both Estonia and abroad, with more frequent international automatic exchanges.

Estonian reporting crypto-asset service providers must collect customer identity/residence details and annual, per-asset aggregated information on users' purchases, sales and transfers (covering both Estonian and foreign residents), and also provide additional data enabling EMTA to calculate individuals' capital gains/losses;

EMTA will transmit data on foreign users to their home tax authorities and receive corresponding data on Estonian residents from abroad. While EMTA's page notes first annual submissions occur in 2027 for 2026 data, users remain responsible for correctly reporting crypto-related income in Estonia's income tax return.

E-Residency

Estonia's e-Residency program, launched in 2014 and continuously updated through 2026, enables entrepreneurs globally to become e-Residents of Estonia. E-Residency provides access to Estonian e-services, including digital business registration, taxation services, and certain banking and payment services, subject to individual service provider requirements. This is also the reason why Estonia is the country where anyone with Estonian digital identification tool can register a company from anywhere without being physically present, and at record speed.

To become an e-Resident, you need to fill an application, prepare documents (CV, motivation for applying, and business activity), pay a fee, and choose a pick-up location. The identity verification process typically takes 8-30 business days, after which the e-Residency digital ID card will be delivered to your chosen pickup location within 2-5 weeks, subject to potential delays based on location and circumstances. More about e-Residency can be found at https://www.e-resident.gov.ee/about-us/.



ETHIOPIA

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ETHIOPIA

LEGAL FOUNDATIONS

Ethiopian law is influenced by continental European legal regime and follows the **civil law system**. It thus relies on written statutes and comprehensive legal codes in the field of public, private and criminal law that are constantly updated:

- **Public law** covers the relationship between individuals and the Ethiopian state and is enforced by administrative bodies (eg trade license requirements, tax rules).
- **Private law** governs the relationship between individuals. The most important source of law in this context is the Ethiopian Civil Code, Ethiopian Commercial Code, and the Ethiopian Family Code. Besides, there are many more laws for each specific field (eg employment).
- **Criminal law** is mainly codified in the Ethiopian Criminal Code and Criminal Procedural Code. Specific provisions, such as criminal sanctions, are however included in respective laws.

On top of this, decisions of the Federal Supreme Court Cassation Bench on issues of law are binding on lower courts and often guide judicial reasoning and interpretation. Ethiopia's legal structure is thus codified but also shaped by binding precedent and constitutional recognition of customary and religious courts, giving it a pluralistic character.

CORPORATE STRUCTURES

Ethiopian Law provides the following forms of companies:

Private Limited Company ("PLC")

The private limited company has proven to be the most popular form of companies in Ethiopia. This is the most favorable form for start-ups.

- A PLC is a company whose members are liable only to the extent of their contributions. A PLC is required to have a minimum of two shareholders and a maximum of fifty members.
- A PLC is considered to have a personal element in its shareholders. This is reflected by the fact that its shares cannot be freely transferred outside the company without the prior approval of the majority of the members representing at least three-quarters of the capital unless a larger majority or unanimity is fixed in the memorandum of association.
- The minimum capital required for the establishment of a PLC is ETB 15,000 and the minimum par value of the shares shall not be less than ETB 100. This capital has to be fully paid for establishing a PLC.
- The management organs of a PLC are the General Meeting and the General Manager, which is appointed by the General Meeting of Members. A PLC is not required to have a Board in its management organ. however, upon the decision of members it can establish a Board as part of its management organ. The directors of the Board in a PLC range from 3 to 7.

CORPORATE STRUCTURES, CONT'D

Share Company

- Share Companies are ideal for big businesses which are public or require stronger corporate governance. A Share Company is a form of business organization whose capital is fixed in advance and divided into shares and whose liabilities are met only by the assets of the company. In addition, the shareholders liability is also limited to the extent of their shareholding in the company.
- A minimum of five shareholders are required to establish a Share Company but no maximum number is set. A Share Company has a minimum capital requirement of ETB 50,000 with a minimum par value of shares not less than ETB 100. The capital shall be fully subscribed and at least one quarter of the par value of shares sold shall be paid up for formation of a Share Company.
- A Share Company is managed by a General Meeting of Shareholders, the Board of Directors, Auditors, General Manager (appointed by the Board), Supervisory Board, if appointed by the shareholders, and a Company Secretary.
- The General Meeting of Shareholders is the highest decision-making organ of the Share Company. The Board is the major management organ of a Share Company, and it shall have three to thirteen directors appointed by the shareholders. The directors can be both natural and legal persons. Non- shareholders can be appointed as directors, however, the number of non-shareholder directors shall not exceed 1/3 of the total number of directors.

One Member PLC ("OMPLC")

This is a new company form recognized by Ethiopian law.

- OMPLC enables a single person (individual or legal entity) to establish a limited liability company with a separate legal personality from the member.
- The minimum capital requirement for a OMPLC is ETB 15,000.
- OMPLC is formed through a Unilateral Declaration. OMPLC under the Unilateral Declaration is required to appoint a Nominee that will undertake the administration of the property in case of death or absence of the member and the Nominee is required to be present in person at a notary public and disclose its willingness to serve as a Nominee.
- The OMPLC is managed by the member and a General Manager. The member can also serve as a General Manager of the company. The decisions of the OMPLC are required to be reduced into a minute and it has the same powers as a PLC's General Meeting.

Partnerships

The other available forms for businesses are partnerships. There are different types of partnerships under Ethiopian Commercial Code:

- **General Partnership:** this type of business typically includes forms of partnership consisting of one or more partners who are each jointly and severally liable between themselves and within the partnership itself for the obligation of the partnership. In other words, liability is not restricted to business. In a general partnership, partners' contributions can be in the form of money, movable or immovable assets, skills, etc.
- **Limited Liability Partnerships:** this type of business is formed by two or more partners to render professional services and services complementary thereto. In a limited liability partnership, the partners' liability is limited to the amount of their contributions. What makes it different from the other types of partnerships is that this partnership has a legal personality distinct from that of the partners. Furthermore, only professionals licensed by an appropriate organ to provide that professional service are permitted to be partners.
- **Limited Partnership:** these kinds of business partnerships contain partners with different types of liability. General partners are fully jointly and severally liable to the partnership, and limited partners are liable only to the extent of their pledged contribution. Limited Partners are restricted from holding managerial positions and they are not allowed to offer their skills as a contribution.
- **Joint Venture:** this is a business type established by an agreement between two or more persons and is in principle subjected to the general principles of partnerships. However, it has no legal personality, and its existence is unknown to third parties. Moreover, registration formalities required of other business organizations do not apply to Joint Ventures.

ETHIOPIA

CORPORATE STRUCTURES, CONT'D

Sole Proprietorship

The sole proprietorship is also a commonly used legal form in Ethiopia. The owner of the business is a single natural person. The sole proprietorship comes into existence upon registration of the business with the competent district administrative authority. The sole proprietor is fully and personally liable with his or her private and business assets. Currently, these types of businesses are converting to One Member Private Limited Company to avoid person liability.

ENTERING THE COUNTRY

Ethiopia has specific laws governing foreign investment. Foreign investors are required to secure an investment permit from the Ethiopian Investment Commission prior to investing in Ethiopia. The Ethiopian investment laws have reserved some sectors for domestic investor, for joint investment with the government, and for joint investment with domestic investors. Other than such investment sectors, foreign investors are allowed to freely invest in Ethiopia. Foreign investors are required to make aminimum of USD 200,000 to incorporate a wholly foreign-owned company in Ethiopia. However, if the investment is a joint investment with a domestic investor the minimum requirement is USD 150,000. In addition, if the investment is in the sector of architectural or engineering consultancy works or related technical consultancy services the minimum requirement is USD 100,000 for a wholly foreign-owned entity or USD 50,000 if it is a joint investment with a domestic investor.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

- **What is protectable?** visible sign capable of distinguishing goods or services of one person from those of other persons; it may include words, designs, letters, numerals, colours or the shape of goods or their packaging or combinations thereof.
- **Where to apply?** Trademarks can be filed with Ethiopian Intellectual Property Authority.. The Ethiopian Intellectual Property Authority then reviews the application and invites for opposition where it believes the trademark if minimum trademark requirements are met. With publication in the Intellectual Property Gazette or a newspaper with nationwide circulation of the notice of opposition, the two months opposition period begins. Within this time period, third parties can easily and at low costs oppose the trademark. Where there is no opposition (oppositions are rejected) and minimum conditions are met, the trademark is registered.
- **Duration of protection?** If no oppositions are filed, the trademark registration remains valid for a seven-years-period. Renewal fees are due every seven years.
- **Costs?** Application costs for trademarks for amount ETB 1,750.

Patent

- **What is protectable?** Inventions in the field of technology are patentable. This requires that (i) it is new, (ii) involves an inventive step and (iii) is industrially applicable
- **Where to apply?** Patent applications can be filed with (i) Ethiopian Intellectual Property Authority.
- **Duration of protection?** The term of protection is for initial duration of 15 years subject to renewal for an additional period of 5 years in any case a maximum of 20 years from application.
- **Costs?** Application costs for patents are up to USD 70. Total costs for a patent application may range up to USD 500.

ETHIOPIA

INTELLECTUAL PROPERTY

Utility Model

- **What is protectable?** A minor invention that possesses novelty & industrial applicahility shall give rise to a right to protection in favour of the author there of.
- **Where to apply?** See comments on patent applications above.
- **Duration of protection?** In contrast to patents, the term of protection is only 10 years maximum (initially for a term of 5 years then renewed for additional 5 years).
- **Costs?** Application costs for utility models for up to USD 35.

Designs

- **What is protectable?** composition of lines or colours or any three-dimensional form whether or not associated with lines or colours, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern 'for a product of industry or handicraft
- **Where to apply?** designs may be registered with the Ethiopian Intellectual Property Authority.
- **Duration of protection?** The term of protection is five years and can be renewed two times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 15 years.

The following IP rights cannot be registered:

Copyright

- **What is protectable?** Expressions of the intellectual creation of an author are protectable under the Ethiopian Copyright Proclamation (eg literary and artistic works). Copyright protection is granted immediately with the creation of a work. No registration required.
- **Duration of protection?** Copyright protection ends 50 years after the author has passed away.
- **Exploitation of copyright protected work?** Copyright owners have the exclusive right to exploit the work and the indispensable right to be named as author. The author may however grant third parties rights for economically exploitation.

Trade Secrets

Ethiopia does not have a dedicated trade secret statute. Protection of confidential information is typically achieved through contractual arrangements and general civil obligations.

Madrid System: Ethiopia is a member of the Madrid System; however, it is currently awaiting the deposit of its instrument of ratification for the system to become operational in practice.

DATA PROTECTION/PRIVACY

Under the Ethiopian legal regime, personal data is regulated under the Personal Data Protection Proclamation No. 1321/2024 (the “PDP Proclamation”). The PDP Proclamation classifies data as personal data and sensitive personal data:

- Personal data means any information that identifies, or can be used to identify, a natural person, directly or indirectly. This includes names, identification numbers, location and online identifiers, as well as information relating to a person’s physical, genetic, mental, economic, cultural, or social identity.
- Sensitive data is a special category of personal data requiring enhanced protection due to its sensitive nature. It includes information on racial or ethnic origin, genetic or biometric data, physical or mental health, political opinions, religious beliefs, membership in professional associations, criminal offences, legal proceedings, communications data (content and metadata), and any data designated as sensitive by the Ethiopian Communications Authority. Its processing is subject to stricter legal and security safeguards to protect individuals’ rights and privacy.

Under the PDP Proclamation, personal data must be processed lawfully, fairly and transparently, collected only for specific and lawful purposes, and limited to what is necessary. It should be accurate, kept up to date, and retained only as long as needed, with appropriate security measures to protect it from unauthorized access, loss or breaches. Processing must also respect data sovereignty, ensuring that personal data remains within Ethiopia’s legal and regulatory framework.

DATA PROTECTION/PRIVACY, CONT'D

Lawful Processing of Personal Data

Processing personal data is permitted only if it meets at least one lawful basis, such as the data subject's consent, performance of a contract, compliance with legal obligations, protection vital interest (such as: life or health), response to public health crises or national emergencies, or legitimate interests of the data controller that do not override fundamental rights. Emergency processing must be necessary, proportionate, and follow safeguards defining data categories, purpose, storage, and disclosure limits.

Sensitive personal data is generally prohibited from processing except in limited cases, including with written consent, for life or health protection, medical treatment by authorized institutions, lawful non-commercial objectives of public organizations, compliance with court or legal requirements, or internal purposes of non-profit organizations. Processing data on race or ethnic origin is strictly restricted and only allowed to promote justice and equality with appropriate safeguards.

Cross-Border Data Transfer

Under Ethiopian law, personal data may only be transferred abroad if the receiving jurisdiction provides an adequate level of protection in line with the PDP Proclamation. Before any transfer, an assessment must consider the nature of the data, the purpose and duration of processing, the legal framework of the destination country, and the security measures in place. If the jurisdiction does not meet the required standards, the transfer is prohibited unless special authorization is granted by the Authority. Even then, the transfer can only proceed with the data subject's consent and appropriate safeguards, such as data minimization.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Ethiopia, yet. However, the general restrictions under data protection and privacy laws apply in the usage of AI.

EMPLOYEES/CONTRACTORS

General

The laws that apply to employees in the public sector (civil servants) are different from the laws that apply to employees in the private sector. Civil servants in Ethiopia are governed by the Federal Civil Servants Proclamation No. 1353/2025 and its subordinate laws. Employees in the private sector on the other hand are governed by the Labor Proclamation No.1156/2019 (the "**Labor Proclamation**") which applies to non-managerial employees and the 1960 Civil Code (the "**Civil Code**") which applies to managerial employees.

Managerial employees are those who are given the authority to formulate and implement management policies, hire, transfer, suspend, layoff, dismiss or assign employees either by law or through delegation of the employer. While the Labor Proclamation does not normally apply to managerial employees, it may become applicable if agreed upon by the employer and the employee or specified in internal work rules. Non-managerial employees, conversely, are those employees who do not fall under the definition of managerial employees.

On the other hand, independent contractors undertake to produce a given result under their own responsibility for a consideration. They are governed by the contract they conclude for the work and the general contract law of Ethiopia will be applicable.

EMPLOYEES/CONTRACTORS, CONT'D

Employment Contract

A contract of employment is formed where a person agrees, directly or indirectly, to perform work under the direction and control of an employer in return for wages. Such a contract may be for a definite or indefinite period; however, the law presumes employment to be for an indefinite period unless it falls within specific legally permitted exceptions for fixed-term or piece-work arrangements. Moreover, a fixed-term contract will not automatically terminate upon expiry if the work performed is of a continuous nature.

Termination

According to the Civil Code of 1960, in cases of contract of employment for indefinite period, either party may terminate the contract by giving notice of 7 days. The seven days is to be counted from the date on which next salary falls due. If the employer terminates the managerial employees without any good cause, he/she is obliged to pay compensation although not obliged to reinstate the managerial employee. In sharp contrast to the Civil Code of 1960, the Labor Proclamation No. 1156/2019 is quite exhaustive in providing the grounds for terminating employees. the employment contract of non-managerial employees could be terminated a) operation of the law, b) by agreement of employer and employee, c) by the initiation of the employer, or d) by the initiation of the employee.

Work-for-Hire

Ethiopia does not recognize a formal work-for-hire regime. Accordingly, contracts should expressly address the ownership or licensing of works created by the parties. In absence of such provisions, the courts will generally interpret any transfer or grant of rights in light of the nature of the employment relationship and the surrounding circumstances.

CONSUMER PROTECTION

Consumer protection in Ethiopia is governed by a combination of laws and regulations, including the Trade Competition and Consumers Protection Proclamation No. 813/2013 (the "CP Proclamation"), the Electronic Transaction Proclamation No. 1205/2020 (the "ET Proclamation"), and sector-specific directives such as the Financial Consumer Protection Directive No. 292/2021.

The CP Proclamation applies broadly to all commercial activities or transactions in goods or services conducted in, or having effect within, the Federal Democratic Republic of Ethiopia. Foreign entities engaging Ethiopian consumers, whether directly or through intermediaries, must comply with its mandatory provisions

The CP Proclamation seeks to prevent unfair and deceptive market practices and to ensure that consumers receive safe goods and services that correspond to the price paid. A "consumer" is defined as a natural person who acquires goods or services for personal or household use and not for resale or manufacturing purposes.

Consumer Rights and Business Obligations

Consumers have rights to receive accurate, clear, and sufficient information regarding goods or services; to make free and informed choices without coercion; and to be protected from unfair trade practices, including misleading advertisements, threats, or abusive conduct.

In case of defects, consumers may, within 15 days of purchase, request re-performance or refund for defective services, and replacement or refund for defective goods. They are also entitled to compensation for damage arising from such defects. Liability may be claimed against any party in the supply chain, including manufacturers, importers, wholesalers, or retailers.

CONSUMER PROTECTION, CONT'D

Consumer Rights and Business Obligations, CONT'D

Business persons must comply with strict transparency and conduct obligations, including:

- clearly displaying prices inclusive of taxes and lawful fees;
- affixing required labels in Amharic or English (or providing them separately);
- issuing receipts at the time of sale;
- disclosing trade names and relevant business information upon request; and
- refraining from false, misleading, or deceptive advertisements.

The CP Proclamation further prohibits specific unfair practices, including the use of unlawful measurement instruments, discriminatory treatment of consumers without lawful basis, and the sale of goods that endanger health or safety.

Any contractual provision that purports to waive or limit consumer rights granted under the CP Proclamation is void and unenforceable.

Electronic Commerce

The Electronic Transaction Proclamation No. 1205/2020 (the "ET Proclamation") applies to persons engaged in the sale of goods or provision of services through the internet or other information networks.

Online suppliers must provide clear and comprehensive pre-contractual information, including their identity and contact details, business registration information, full pricing (inclusive of taxes and fees), essential characteristics of goods or services, payment methods, delivery timelines, return and refund conditions, and data security measures.

Consumers must be given the opportunity to review, correct, and withdraw from an order before final submission. They may cancel a contract within seven days without giving reasons. Where mandatory disclosure requirements are not met, this withdrawal period extends to 14 days. Suppliers are generally required to perform within 30 days, use secure payment systems, and issue refunds where cancellation or non-performance occurs.

Sector-Specific Consumer Protection

Additional consumer protection rules apply in regulated sectors. Financial consumers are protected under the Financial Consumer Protection Directive No. 292/2021, while telecommunications consumers are protected under the Telecommunications Consumer Rights and Protection Directive No. 832/2021. Relevant protections are also found in the 1960 Civil Code.

Foreign entities operating in financial services, telecommunications, or digital platforms must ensure compliance with both the CP Proclamation and the applicable sectoral regulations.

Regulatory Enforcement

Consumer protection in Ethiopia is enforced by the Ministry of Trade and Regional Integration (MoTRI), the National Bank of Ethiopia (NBE), and the Ethiopian Communications Authority (ECA). These authorities may investigate suspected violations on their own initiative or in response to consumer complaints. Non-compliance can result in administrative actions, corrective orders, and potential liability for damages. Businesses may also face regulatory scrutiny if their practices are misleading, unsafe, or otherwise inconsistent with consumer protection laws.

ETHIOPIA

TERMS OF SERVICE

In Ethiopia, online terms of service must be clearly communicated to consumers before a contract is formed, and consumers must have the opportunity to review and expressly accept them. Passive or implied consent is generally insufficient when statutory consumer rights are involved.

Online terms must comply with the mandatory provisions of the CP Proclamation and the ET Proclamation, and any clause that excludes, limits, or waives statutory consumer rights is null and void. This includes provisions attempting to restrict the right of cancellation, deny refunds or replacements for defective goods or services, exclude liability for damages arising from non-compliance, or otherwise reduce statutory protections.

Under the ET Proclamation, online service providers are required to include specific minimum information in their terms and pre-contractual disclosures, including: the supplier's full legal name, contact details, business registration, and legal service address; membership in relevant commercial bodies or adherence to codes of conduct; essential characteristics of goods or services; full pricing including taxes and fees; available payment methods; delivery or performance timelines; guarantees and access to transaction records; return, exchange, and refund policies; complaint-handling or dispute resolution mechanisms; and data security and privacy safeguards. Consumers must also be given the opportunity to review and correct errors before finalizing the contract.

TAX/FUNDING

Tax

Investors in Ethiopia are subject to several key tax laws, including the Federal Income Tax Proclamation (as amended) No. 979/2016 and No. 1341/2025, Value Added Tax Proclamation No. 1341/2024, Excise Tax Proclamation No. 1186/2019, Customs Duties Proclamation No. 859/2014, Stamp Duty Proclamation No. 110/, Social Welfare Levy No. 519/2022, and Surtax Regulation No. 133/2007, as well as subsidiary and regional regulations.

Corporate entities are taxed at a flat rate of 30% on taxable income, while sole proprietors are subject to progressive rates from 0% to 35%. Value Added Tax is levied at a standard rate of 15% on non-exempt or non-zero-rated supplies of goods and services. Income derived from digital services is subject to a digital service tax of up to 5%. Withholding obligations apply on payments for services, goods, dividends, interest, royalties, and certain fees. Dividend distributions, undistributed profits, and repatriated profits are generally taxed at 15%.

Startups formally designated under the Startup Proclamation No. 1396/2025 benefit from targeted incentives. These include exemptions from income tax, dividend tax, and withholding tax, duty-free imports of approved capital goods, and favorable treatment of losses, including carry-forward rules. Additional incentives are available under the Investment Incentive Regulation.

Together, these tax laws and regulations define the obligations, benefits, and opportunities for both domestic and foreign investors in Ethiopia.

TAX/FUNDING, CONT'D

Funding

Until recent times there was no mechanism for the registration of funds that are established for the purpose of funding investments such as Startups. Due to of the absence of funding agencies that are incorporated for this purpose in Ethiopia, contact points and links to further information in relation to funding/ subsidies are not available.

Subsequently, startups obtain fundings from interested investors on the ground by directly pitching their ideas to interested persons.

However, following the recent ratification of the Startup Proclamation, it states that there will be a Startup Fund of Funds that will be established as a commercial enterprise by the Government of Ethiopia in partnership with the private sector and may include Foreign investors. The purpose of this Fund of Funds is to invest its capital on other funds that invest in Designated Startups.

Foreign startups and foreign startup ecosystem builders are entitled to all the incentives provided under the Startup Proclamation. However, the foreign startups will not be entitled to benefit from the Startup Grant Program that is established under the Startup Proclamation with the budget to support Designated Startups.

Additionally, the recent laws issued under the Ethiopian Capital Market presents the opportunity to establish Fund vehicles which will be a source of funding for startups.

WHAT ELSE?

Minimum Capital Requirement for Foreign Startups: As provided under the Investment Proclamation No. 1180/2020 (the "Investment Proclamation"), any foreign investor, to be allowed to invest in Ethiopia under the investment laws is required to allocate a minimum capital of USD 200,000 for a single investment project. If the foreign investor is investing jointly with a domestic investor the minimum capital investment required is USD 150,000 per single investment project.

If the foreign investor is investing in architectural or engineering works or related consultancy services, technical testing and analysis or in publishing works then the minimum capital requirement will be reduced to USD 100,000 for wholly foreign owned investment and USD 50,000 if the investment is made jointly with a domestic investor.

Where a foreign investor is re-investing their profits or dividends generated from the existing enterprise in any investment area open for foreign investors. Additionally, the minimum capital requirement will also not apply.

Foreign startups are excluded from the obligation to meet the minimum capital requirement foreign investors are required to meet when investing in Ethiopia.

Opening of Trading Sector to Foreign Investors: Investment Regulation No. 474/2020 originally restricted foreign investment in wholesale, retail, and import activities, as well as in the export of certain goods. However, since these restrictions did not fully achieve the intended goal of developing a self-sustaining national economy with strong domestic capabilities, the Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments Number 1082/2025. This Directive relaxes the previous limitations, permitting foreign investors to engage in these trade sectors provided they meet certain specified conditions.

Double Tax Avoidance Agreement: Currently, Ethiopia maintains DTAs with countries including Algeria, China, Czech Republic, Egypt, France, India, Ireland, Israel, Italy, Morocco, Netherlands, Saudi Arabia, Kuwait, Mozambique, Korea, Poland, Portugal, Cyprus, Romania, Russia, Seychelles, Singapore, Slovakia, South Africa, Palestine, Sudan, the United Kingdom, Tunisia, Turkey, United Arab Emirates, and Yemen.



FINLAND

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FINLAND

LEGAL FOUNDATIONS

Finland is a civil law country and operates under the principle of the rule of law. There is no federal or state division of powers. In addition to written rules of law, decisions of the Supreme Court (KKO) and the Supreme Administrative Court (KHO) are considered as precedents and have a great importance in interpreting the statutes but are not legally binding. The Finnish legal system also includes lower courts, such as district courts and administrative courts, as well as specialized courts, such as the Market Court and the Labour Court.

Finland is a member of the European Union and has implemented EU laws in national legislation. EU legal system is based on the principle of the supremacy of EU law which means that EU law takes precedence over national law. EU laws have been largely harmonized and thus within the EU many countries share similar legislation.

The Finnish legal system has developed in close connection with that of the other Nordic countries. Since Finland and Sweden share a common historical past Swedish legislation has to a notable extent influenced the Finnish legislation. Therefore, similarities can be found between the legal systems in other Nordic countries and especially Sweden.

CORPORATE STRUCTURES

Finnish law provides the following forms of companies:

Limited liability company (“Osakeyhtiö”)

The limited liability company is the most common legal form to conduct business in Finland since it has a flexible ownership structure with the ability to have one or multiple shareholders. It is regulated under the Finnish Limited Liability Companies Act 2006/624 (FI: “Osakeyhtiölaki”). As to its requirements:

- One or multiple shareholders (individuals or legal entity) possible
- There is no minimum amount of share capital required
- Every new limited liability company must file a start-up notification with the Finnish Trade Register. The filing must be made electronically. If none of the persons responsible for the filing have Finnish personal identity code they can file the notification by using means of identification from another EU country or, alternatively, an authorized person may do the filing.. The registration process typically takes from two to three weeks. The company will be a separate legal entity from the date of registration.

CORPORATE STRUCTURES, CONT'D

Limited liability company ("Osakeyhtiö") , CONT'D

- The Memorandum of Association (FI:" Perustamissopimus") and the Articles of Association (FI: "Yhtiöjärjestys") are the official founding documents. The Articles of Association contains rules by which a company is regulated in addition to the Finnish Limited Liability Companies Act. The Articles of Association must include certain statutory information, but shareholders can also voluntarily include provisions, for example, on limitations to share transfers or different decision-making practices.
- The Board of Directors and the Managing Director constitute the company's operative management and represent the company whereas shareholders do not have any statutory obligation to represent a limited liability company
- Shareholders can flexibly agree on certain rights or obligations for shareholders through a shareholders' agreement
- A limited liability company is separate from its owners and, therefore, offers limited liability protection for its shareholders

A limited liability company may be private or public. Shares of a public company can be traded publicly. Thus, public limited liability companies have more compliance requirements and a minimum share capital requirement of EUR 80,000. A private limited liability company can be turned into a public company and vice versa. In the event of change of company structure, changes to statutory requirements should be carefully noted and complied with.

Sole proprietorship (FI: "Toiminimi") or private trader

This is the easiest company form to set up and operate in Finland. It allows individuals to start and run their own businesses without high administrative or reporting requirements compared with a limited liability company. Private traders are not required to register with the Trade Register but can choose to do so if they wish. Registering with the Trade Register is required in case:

- you wish to get protection for your company name;
- you wish to apply for enterprise mortgage;
- you are liable to register financial statements under the Accounting Act; or
- you are a private trader permanently residing outside the European Economic Area.
- Private traders may still be obligated to register with the Finnish Tax Administration.

Private traders may still be obligated to register with the Finnish tax Administration.

No minimum capital is required.

- If a start-up notification must be made, it can be filed electronically with the Finnish Trade Register if the owner has a Finnish internet bank account to go through the identification process (otherwise hard copy format registration is available). The owner can operate the business under its own name or choose a trade name.
- In sole proprietorship, the owner is solely responsible for the financial and legal obligations of the business. This means that the owner's personal assets can be seized to pay off any debts incurred by the business.

General Partnership (FI: "Avoin yhtiö")

A general partnership is owned by one or more individuals. It is simple to set up and requires fewer formalities compared to a limited liability company. As to its requirements:

- A start-up notification with the Trade Register must be filed, this must be done electronically. If the owner does not have a Finnish internet bank account to go through the identification process, an authorized person may do the filing.
- The General Partnership comes into force with the notification.
- Partnership shares are not freely transferrable as in limited liability company due to owner's personal liability and transferring partnership shares requires consent from every owner.
- The owners are personally liable for the company's debts and obligations. Their personal assets may be seized to satisfy the company's liabilities if the company is unable to pay its debts.

CORPORATE STRUCTURES, CONT'D

Limited partnership (FI: "Kommandiittiyhtiö")

A general partnership and a limited partnership are, in many ways, similar forms of business. In principle, they are set up the same way. A general partnership is ideal for a small business with a trusted partner. A limited partnership, on the other hand, is well suited for business activities based on personal work input and combined with an investor. The general partners are personally responsible for the company's debts as in general partnerships, while the limited partners are only responsible for the company's debts to the extent of their capital contributions. Moreover, general partners are responsible for operations, representations and decision making whereas limited partner acts solely as an investor if otherwise has not explicitly been agreed on.

ENTERING THE COUNTRY

Save as concerns key national interests, there are no general restrictions on foreign investment.

If key national interests so require the Finnish Ministry of Economic Affairs and Employment can restrict certain foreign corporate acquisitions. Under the Act on the Monitoring of Foreign Corporate Acquisitions in Finland 172/2012 (FI: "Laki ulkomaalaisten yritysostojen seurannasta") (Foreign Corporate Acquisitions Act), an acquisition of Finnish entities by a foreign investor is subject to an approval by the Ministry if the acquired entity falls within any of the following categories:

- Defence industry entity
- Security sector entity (company that produces or supplies critical products or services related to the statutory duties of Finnish authorities essential to the security of society)
- Entity critical in terms of security of supply (an organisation or business undertaking that is considered, when assessed as a whole, critical in terms of securing functions vital to society on the basis of their field, business or commitments)

A foreign investor means any person not domiciled within EU or an EFTA Member State as well as any entity in which a person not domiciled within EU or EFTA controls at least one tenth of the voting rights or has a corresponding actual influence. Moreover, an acquisition of a defence industry enterprise is subject to monitoring also in cases where the investor is domiciled in another EU Member State, apart from Finland, or in an EFTA Member State.

The Ministry must approve the acquisition unless it potentially conflicts with a key national interest, in which case the Ministry must refer the matter for consideration at a government plenary session.

The Foreign Corporate Acquisitions Act would not as such apply to the establishment of a new start-up activities conducted by start-ups but will only apply in case of an acquisition.

FINLAND

INTELLECTUAL PROPERTY

Trademarks

What is protectable? Distinctive signs such as words, phrases, logos, symbols, colors, sounds, shapes and even scents as long as they can be represented in the Trademark Register in a manner that enables the authorities and the public to determine the clear and precise scope of the protection granted to the trademark proprietor The mark must also be capable to distinguish goods or services of one company from those of another company. A mark indicating the characteristics of the goods and/or services applied under the mark, such as the kind, quality, quantity, purpose, value, geographic location, time of manufacture of goods, time of rendering of services, or another feature thereof, is generally deemed to be non-distinctive. In addition, the trademark must not be identical to or confusingly similar to an existing trademark, and it must not be contrary to public order or morality. As the relevant authority (the Finnish Patent and Trademark Office "PTO") automatically examines prior rights (trademarks and trade names receiving protection in Finland), it is recommendable to conduct an availability search before filing the application.

Where to apply? Applications can be filed either with (i) the PTO for national protection, (ii) the European Union Intellectual Property Office (EUIPO) for unitary protection in all EU countries or (iii) by designating Finland in the application for international registration under the Madrid System through the World Intellectual Property Organization (WIPO). The national trademark application can be filed online in Finnish, Swedish or in English if the applicant has a Finnish internet bank account to go through the identification process (otherwise hard copy format registration is available). Note, however, that the processing language must be either Finnish or Swedish and all authority correspondence after the filing must also be conducted either in Finnish or Swedish.

Duration of protection? A trademark registration remains valid for ten years, taking effect from the application date, and may thereafter be renewed every 10 years.

Costs? The costs can vary depending on the number of classes of goods and services that the application is filed for In Finland, the official fee for filing a trademark application online for one class is EUR 250. Each additional class of goods and/or services will cost an additional EUR 100. The fees do not include possible legal representative fees.

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that the invention is novel as in it involves an inventive step, not obvious to a skilled professional and it is industrially applicable (i.e., it is technological in nature, and must solve a technical problem). Thus, it follows that ideas and discoveries may not be patented, meaning that discoveries, scientific theories, mathematical methods, aesthetic creations, schemes, rules, programs for computers, or presentations of information, as such, are not patentable in Finland but related inventions thereof may be if the invention is technological in nature. Patents to inventions that are considered contrary to public order or decency if commercially exploited are not granted.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

Where to apply? Patent applications can be filed with either the Finnish PTO (online or hard copy format) or through the European Patent Office (EPO) or as a PCT application through WIPO where Finland may be designated as one of the countries where protection is sought. The registration procedures before these offices slightly differ. Finland has ratified the UPC Agreement, meaning that Unitary Patents submitted by a single request to the EPO will be granted patent protection also in Finland.

Duration of protection? A patent can be kept in force for 20 years from the filing date of the application. If the patent protects the active ingredients used in medicinal products or plant protection products, the term of patent protection can under certain conditions be extended with a maximum of 5 years (Supplementary Protection Certificate, SPC).

Costs? Application fees vary depending on with which authority the application is filed and the complexity of the invention. In Finland the authority application fee amounts to EUR 580 (for an electronic application EUR 450), and the fee for each claim over 15 amounts to EUR 60. Later during the process, a publication fee and annual maintenance fees become payable. The fees do not include legal representative fees.

Employee invention and inventor bonus? In Finland, the rights to employee inventions that may be protected by patents are regulated by the Employment Inventions Act (FI: "Laki oikeudesta työntekijän tekemiin keksintöihin" 1967/656) and the Employee Inventions Decree. An employee has the same right to their invention as any other inventor. However, the employer may obtain full or partial rights to a patentable invention made by an employee if the invention results from the employee's work tasks or substantially uses the employer's experience, and the exploitation falls within the employer's business area (or, for specifically assigned tasks, even if outside the business area). The employer must actively claim this right in writing within four months of receiving notification of the invention. Nevertheless, the employee is always entitled to reasonable compensation for the right to his/her invention that the employer may obtain either by operation of law or by virtue of agreement.

Utility Model

What is protectable? Utility models may be registered to protect technical inventions (inventions to be used for industrial purposes). Similar to patents, the invention must be new and clearly differ from what has become known before the date of filing the utility model application. Otherwise, the rules applicable to utility models are very similar to those applicable to patents, with the distinction that the threshold for inventiveness is somewhat lower than for that of patents.

Where to apply? An application can be filed with the Finnish PTO (online or hard copy format) or as a PCT application through WIPO where Finland may be designated as one of the countries where protection is sought.

Duration of protection? Once registered, a utility model is valid for four years from the date of filing the application. The registration may be renewed twice, first for a period of four years and again for a period of two years, thus extending the maximum period of protection to 10 years from the filing date. There is no opposition period for utility models, and anyone can at any time file an invalidation claim against the registered right.

Costs? The costs consist of a registration fee and, if applicable, an additional fee for each claim over five. The list of applicable fees for utility model applications and registered utility models can be found here. The fees do not include legal representative fees.

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? A design right protects the appearance of the product, consisting of the overall impression of a product's lines, contours, colors, shape, texture, or material. A non-separable part and an ornament of a product may also be protected by a design right, such as industrial or handicraft item, including parts intended to be assembled into a complex product, and packaging, get-up, graphic symbols and typographic typefaces. In order to receive protection, the design must be new and have individual character. If the design or an identical design is made available to the public prior to filing of the application, the design is not considered new and is devoid of registration. A grace period of 12-months constitutes an exception to this rule. The so-called grace period provision makes it possible, for the creator of a design to test his/her product on the market for up to 12 months before filing the application. However, the grace period involves many risks that may take away the novelty of your design and should not be used lightly.

Where to apply? An application for national protection is to be filed with the PTO (online or hard copy format). To obtain unitary protection in the EU, a Community Design may be registered with the EUIPO or as a PCT application through WIPO where Finland may be designated as one of the countries where protection is sought.

Duration of protection? The term of protection is five years and can be renewed five times for another five year period by paying a renewal fee. The maximum term of protection is therefore 25 years. An exception to this rule is that the maximum term for protection of component parts of complex products is 15 years.

Costs? The application costs for a design consist of an application fee and varies depending on the number of classes. The list of applicable fees for design applications and registrations can be found here. The fees do not include possible legal representative fees.

Domain Name

What is protectable? A .fi or .ax domain name can consist of two to 63 characters. The general requirement for registration is that the domain is not identical with or confusingly similar to any company names or trademarks already registered (unless the domain name holder can present a good, acceptable reason for registering said domain name). It is the domain name applicant's responsibility to make sure that the domain name registration fulfills the necessary requirements.

Where to apply? In order to register a .fi or .ax domain name, the applicant has to contact a domain name broker who has registered itself with Traficom (list available on their website) and who, on behalf of the applicant, performs all actions such as registration, renewal and maintains the technical requirements regarding the domain name.

Duration of protection? A domain name registration may be registered for a maximum of five years at a time and may thereafter be renewed (by paying the renewal fee).

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? Copyright protection is automatically granted in Finland and does not require registration. Under the Finnish Copyright Act, a person who has created a literary or artistic work shall have copyright therein, e.g., a fictional or descriptive representation in writing or speech, a musical or dramatic work, a cinematographic work, a photographic work or other work of fine art, a product of architecture, artistic handicraft, industrial art, or as well as maps and computer programs. Moreover, the Copyright Act provides protection for certain neighboring rights such as rights of photographers, performing artists, and record producers. The prerequisite for obtaining copyright protection is that the work of art is considered creative and original.

Duration of protection? The duration of copyright spans the author's life plus 70 years after the author's death.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work and the indispensable right to be named as author. The author may grant third parties non-exclusive or exclusive rights to use the work through a licence agreement. A work of art may only be created by one (or several) natural person(s), who is/are then regarded as its creator(s). Copyright protection consists of moral and economic rights. The distinguishing feature between these rights is that moral rights, such as the right to be acknowledged as the creator of a work of art, are inherently those of the creator and cannot be transferred. However, economic rights may be freely transferred, thus enabling also a company to possess copyrights. It is customary for an employment contract to contain a provision according to which the employees transfer possible copyrights that arise during the course of the employment to the employer.

Trade Secrets

What is protectable? Under the Trade Secrets Act 595/2018 (FI: "Liikesalaisuuslaki"), implementing the EU Trade Secret Directive, a trade secret is defined as information that is not generally known or readily accessible to persons that normally deal with the kind of information, that has economic value in business activities, and whose owner has taken reasonable steps to keep the information secret. Thus, to gain protection, companies have to take appropriate non-disclosure measures (e.g., mark information as trade secrets, implement IT security measures, particularly access restriction and conclude NDAs).

Duration of protection? Trade secrets in Finland do not have a set term of protection. Instead, they are protected as long as they remain confidential and not generally known or easily accessible to the public.

FINLAND

DATA PROTECTION/PRIVACY

Since 25 May 2018 the GDPR applies in Finland. The GDPR is supplemented by the Finnish Data Protection Act 1050/2018 (FI: Tietosuojalaki), which applies to the processing of personal data where the controller's place of business is in Finland and if the processing is carried out in the context of the activities of an establishment of a controller or processor in the EU.

The national derogations under the GDPR are included in the Finnish Data Protection Act and may be summarized as follows:

- The age for child's consent in relation to information society services has been lowered from 16 years to 13 years
- Several provisions of the GDPR are not applied with respect to the processing of personal data solely for journalistic purposes or academic, artistic and literary expression purposes, including data subjects' information rights and controllers' transparency obligations certain rights of data subjects and provisions relating to the processing of special category personal data
- The Data Protection Act also includes derogations with respect to processing of personal data for scientific or historical research purposes or statistical purposes, including the provisions of the GDPR relating to right of access, right to rectification, right to restriction of processing and right to object
- The Data Protection Act restricts the right to process personal ID numbers, this is only allowed under the conditions enumerated in the Data Protection Act

The Act on Electronic Communication Services 917/2014 (FI: Laki sähköisen viestinnän palveluista) applies to electronic communication service providers and includes, amongst others, provisions on the collection and use of location data, processing of traffic data confidentiality of communications, electronic direct marketing and cookies.

As a rule, **electronic direct marketing to individuals** is allowed with the individual's prior consent thereto. Electronic direct marketing is marketing conducted by means of automated calling system, fax, email, text, voice, sound or picture message. Consent for electronic messages is, however, not required if the controller has received the contact information from the customer in connection with a previous transaction and this contact information is used for the direct marketing of products or services belonging to the same product group as previously purchased and the electronic marketing is carried out by the same controller. The controller must provide the individual with the possibility to forbid the use of his/her contact information, easily and free of charge, in each subsequent direct marketing message.

Electronic direct marketing to legal persons (sales@company.com) is allowed if the receiver has not prohibited such marketing. If electronic direct marketing is sent to an employee, the products or services marketed must be related to the employee's duties. Otherwise and if email messages are sent to an individual's work email e.g. firstname.lastname@company.com, the rules relating to electronic direct marketing to individuals apply, i.e. the employee in question must give his/her consent to such marketing.

Finally, as regards **data processing carried out by employers**, it is worthwhile noting that the Act on the Protection of Privacy in Working Life 759/2004 (FI: "Laki yksityisyyden suojasta työelämässä"), includes additional and stricter provisions on employers' right to process employee-related personal data and to monitor employees' email communications than the GDPR.

The Office of the Data Protection Ombudsman (FI: Tietosuojavaltuuten toimisto, www.tietosuoja.fi) is the competent supervisory authority. The number of cases initiated has increased considerably during the past years. Over 50 per cent of the initiated cases concern data breaches.

As regards **the use of cookies**, prior consent is required for setting cookies which are not necessary for the provision of the service in question, irrespective whether personal data is processed or not. Thus, opt-in is required for all marketing cookies. The Finnish Transport and Communications Agency monitors the use of cookies.

FINLAND

ARTIFICIAL INTELLIGENCE

There are currently no specific laws in Finland that solely govern AI but laws in different domains may apply such as the GDPR and the Finnish Copyright Act. However the EU AI Act, which entered into force 1 August 2024 is directly applicable also in Finland. The EU AI Act will be implemented in stages, with different transitional periods and deadlines for Member States. Unless otherwise specified, the EU AI Act will apply 24 months after its entry into force. In Finland the national laws for the implementation of the EU AI Act were approved by the parliament in December 2025. The main act is the act on the supervision of certain AI systems (1377/2025) which sets forth the relevant supervisory authorities and includes provisions on supervision and penalties for non-compliance with the act.

Whilst the GDPR does not specifically regulate AI it, nevertheless, applies in general to all processing involving personal data (which may be the case when developing/taking into use AI). Also, article 22 of the GDPR includes a ban on automated decision making unless there is suitable legal safety measures such as the right to contest the AI decision and right to obtain human intervention.

It is currently not legally entirely clear if copyright infringements may occur when training AI applications. The Finnish Copyright Act has been amended to implement the Directive on copyright and related rights in the Digital Single Market (the DSM Directive, 2019/790/EU) and a new provision (13 (b)) on data mining was introduced to the said Act. According to this provision anyone with legal access to a work is allowed to make copies of it for the purpose of text and data mining, unless the author has expressly prohibited it. However, data mining, if interpreted narrowly, may be regarded to apply to activities producing analytics only and not the production of content (which can be seen as the aim of the training of AI applications). Neither the DSM Directive nor the preparatory works for the new provision included in the Finnish Copyright Act mention AI or machine learning and, therefore, it is to be seen how the Finnish courts will interpret this provision. When it comes to the copyright of creations, copyright can only be obtained by human creators. This means that any creations made purely by AI are not copyright protected.

Also, it is worth noting that Finland is one of the first countries in Europe to launch a national artificial intelligence strategy - a national AI strategy was created already in 2017. In end 2020 the Ministry of Economic Affairs and Employment of Finland appointed a steering group to prepare an action plan for Finland to speed up the introduction of AI. The AI strategy, amongst other things, focuses on promoting the development and introduction of AI and other digital and seeks to encourage cooperation between different sectors.

Finally, the development of AI technology has in Finland been supported by Business Finland, a Finnish governmental funding agency through several key funding programs, such as the AI Business Programme (boosting development, growth and internalisation of Finnish AI companies) with a total budget of over EUR 200 million.

FINLAND

EMPLOYEES/CONTRACTORS

General: An employer and an employee must conclude an employment agreement stipulating their rights and obligations. Additionally, mandatory law and collective agreements set forth right and obligations for both employers and employees. Enforcing compliance with the labour legislation is mostly the responsibility of the Occupational Safety and Health authorities (FI: "Aluehallintovirastot").

A company may also offer a contractor agreement (freelance contract or contract for work and services) instead of an employment agreement. These contracts are usually not subject to labour legislation.

Foreigners working in Finland: Generally, foreigners planning to work in Finland are required to apply for a residence permit with right to work. However, there are exemptions from this requirement, for example, for citizens of another EU/EEA country and for work that lasts under 90 days. An employer has an obligation to ensure that employees are entitled to work in Finland.

Posted workers: If the employment contract is connected to several countries, the choice of law must be evaluated on a case-by-case basis. Where the work is carried out in Finland, the mandatory Finnish law will be applied. The country where the work is habitually carried out will not be deemed to have changed if the employee is temporarily (up to a maximum of two years) employed in another country (Regulation (EC) 593/2008 on the law applicable to contractual obligations (Rome I)).

Social insurance contributions and indirect labour costs: The employer is obligated to pay certain social security contributions. Statutory insurance contributions include employment pension insurance (TyEL), accident insurance and unemployment insurance contribution for all employees. Additionally, an employer may be obligated to have a group life insurance. These statutory obligations are often referred to as indirect labour costs. The employer withholds the employee's share of the contribution in connection with paying out the wage.

Universally binding collective agreements: Finnish labour market system is characterised by a high degree of organisation among both employers and employees and the collective agreeing of terms and conditions of employment.

A collective agreement may be confirmed as universally binding. These agreements are binding in their respective sectors also on unaffiliated employers, i.e. employers that do not belong to an employers' organisation. Any clause in an employment contract that violates the corresponding provision in a universally binding collective agreement is null and void.

Termination: Employees are generally well protected in Finland. Termination of an indefinitely valid employment contract is not possible without proper and weighty reason. Fixed-term employment contract cannot be terminated unless it has been expressly agreed upon when the employment contract was concluded.

Employees can challenge an unlawful termination of their employment relationship (e.g. if the proscribed motive for the termination is illness or disability affecting the employee, participation of the employee in industrial action or the employee's religious or political opinions).

In addition, certain groups of employees (e.g. pregnant employees, employees on parental leave, shop stewards and elected representatives) enjoy special termination protection and can only be terminated under certain conditions.

FINLAND

CONSUMER PROTECTION

Finland has relatively **high degree of consumer protection** that is mostly regulated by **Finnish Consumer Protection Act 1978/38** (FI: "Kuluttajansuojalaki"). The act is applied to the offering, selling and other marketing of consumer goods and services by businesses to consumers in Finland. Consumer protection includes regulation for disclosing information, advertising and marketing as well as some standard terms and conditions such as consumer rights applicable to goods and services provided. **Finnish Competition and Consumer Authority** provides companies guidance on consumer law issues and advise for resolving disputes with consumers. Moreover, the Consumer Ombudsman's guidelines contain information and advice regarding the application of the provisions.

The obligation to disclose certain information concerns information about the products and services as well as information about consumer rights and terms and conditions applied to the sale. Obligation to disclose information is more comprehensive for distance selling and businesses must for example provide information on consumers' right to withdraw from any contract within 14 days without giving any reasons. If a consumer is not sufficiently informed about the right of withdrawal, this right is automatically extended for up to 12 months. Marketing is also subject to certain information disclosure obligations. Marketing must clearly indicate its commercial purpose and on whose behalf it is carried out. The Finnish Consumer Protection Act also contains specific provisions applicable to contracts relating to digital content and digital services.

Finnish consumers have a number of rights under the Consumer Protection Act, including the right to receive a full refund for defective products and the right to receive compensation for any damage caused by a product. Businesses must have a process in place for handling consumer complaints and resolving disputes with consumers.

There is also an alternative dispute resolution for consumers **(The Consumer Disputes Board)** that gives recommendations to disputes between businesses and consumers. Recommendations by The Consumer Disputes Board are largely obeyed and applied by businesses.

TERMS OF SERVICE

Distance sale (such as online sale) must be accompanied with certain information set forth in the Consumer Protection Act (Chapter 6). Terms and conditions in contradiction with the act are considered null and void. Following information must be included in any online terms of service targeted at consumers (the list is not intended to be exhaustive):

- main characteristics of the service (or good);
- the name and address of the business as well as contact details;
- the price including taxes and other fees, delivery charge and terms of payment on the consumer service (or good);
- the other terms of delivery or performance of the contract;
- information about consumer complaints;
- information about costs related to withdrawal;
- information about consumer's right to withdraw within 14 days without giving any reasons and withdrawal form if applicable;
- information on statutory liability for defects;
- the duration of the contract, and if it is in force until further notice, and terms and conditions regarding the termination of contract; and
- information about the possibility and means to refer a dispute to the Consumer Disputes Board or other dispute resolution body.

FINLAND

TAX/FUNDING

Taxation: Finnish start-ups are typically organized in the legal form of limited liability companies. Therefore, we limit our tax overview on the investment into start-ups organized as non-listed Finnish limited liability companies.

Corporate Income Tax: Finnish corporations are currently subject to a 20% corporate income tax on their profits. That said, Finland is intending to lower the corporate income tax rate to 18% as from 2027 onwards. Non-resident companies are taxed only on their Finnish-source income or income attributable to a Finnish permanent establishment.

Tax losses: Finnish corporations can currently carry forward tax losses for up to 10 years. Finland is intending to extend the carry forward of tax losses to 25 years (to be applicable from 2026 onwards).

Withholding Tax on Dividends (corporate): Dividends paid by a Finnish company to non-resident companies are in principle subject to WHT of either 20% or 30%. However, in practice dividend WHT is exempted or reduced by the provisions of the EU Parent-Subsidiary Directive or an applicable tax treaty. Under most tax treaties, the withholding tax rate is usually reduced to 0–15% on dividends paid to qualifying persons. Further, dividends paid to a recipient residing in an EEA Member State are also exempt from WHT to the extent that a Finnish recipient would, under corresponding circumstances, be partly or fully exempt from tax. The WHT relief is based on EU law and may give foreign investors the right to a retroactive tax refund claim.

Withholding Tax on Dividends (natural persons): Finland operates a dividend WHT system, whereby the distributing company withholds in advance (part of) the capital income tax payable by the resident recipient for the dividends. The withholding rate is 7.5% up to dividends of €150,000 and 28% of the dividends exceeding €150,000. Generally, the WHT rate for non-resident recipients is 30% of dividends that are taxable as capital income, unless reduced by an applicable tax treaty.

Withholding Tax on Interest: Finland generally does not impose WHT on interest payments to non-residents.

Withholding Tax on Royalties: Royalties paid to a non-resident are subject to a WHT at the rate of either 20% or 30%, unless tax treaty provisions or the EU Interest and Royalty Directive reduce or exempt the payments of WHT. Royalties paid to a Finnish permanent establishment of a non-resident company are taxed as income of the permanent establishment and no WHT is levied.

Tax Treaties: Finland has a robust network of tax treaties. Currently, Finland has tax treaties with more than 70 countries.

Capital Gains Tax (corporate): For corporates, capital gains are generally taxed as ordinary business income at 20%. However, based on the Finnish participation exemption, if the shares are part of the seller's fixed assets, the shares are not real estate rich, the seller held at least 10% of the shares for over a year and the sold shares are in a company based in Finland, an EU/EEA country, or a tax treaty country, the gain capital gains realized on the disposal of shares are exempt of tax. Nonetheless, the Finnish law excludes the application of the participation exemption regime to investment companies (e.g., private equity companies, start-up holding companies, or passive holding companies in general). Capital gains realized by a non-resident corporation on the disposal of shares in a Finnish company are generally not subject to non-resident capital gains tax in Finland to the extent the underlying company is not real estate rich.

Capital Income Tax (natural persons): For natural persons, capital income (e.g., dividends and capital gains) is subject to progressive tax rates; 30% on capital income up to €30,000 and 34% on the portion exceeding €30,000. Alternatively, for capital gain purposes, individuals can opt to be taxed on the basis of the so-called deemed acquisition cost, which is equal to 20% of the sales price, or 40% of the sales price, if the shares have been held for at least ten years (while applying the progressive tax rates of 30%/34% thereto).

TAX/FUNDING, CONT'D

VAT: The Finnish VAT system is based on EU VAT directives and applies to the sale of goods and services. The standard VAT rate in Finland is 25.5% but reduced rates (14% or 10 %) apply to certain goods and services. As is the case in other EU Member States, certain services are exempt of VAT (e.g., medical, financing, and insurance services). Companies may also opt to charge VAT on the letting of real estate.

When commencing business activities subject to VAT, the company must, as a rule, register in the statutory VAT Register. However, VAT liability arises only if the turnover during the financial period exceeds €20,000, unless the trader explicitly applies for VAT liability with the Tax Authorities. VAT returns must be filed monthly, quarterly, or annually, depending on the company's turnover. VAT payments and filings are due by the 12th of the second month following the tax period. Companies registered for VAT must charge VAT on sales but can also deduct input VAT paid on goods and services acquired for business use.

Employee Stock Options and Share Issuances: Employee stock options and share issuances are a common way for startups and growth companies to incentivize employees. In Finland, qualifying stock options granted as part of an employment relationship do not trigger taxation at the time when the options are granted, but rather when the options are exercised. The taxable benefit received due to exercising options is taxed as salary income and calculated based on the fair market value of the shares at the time of exercise less the amounts paid for the shares at the time exercise and granting. Employers' salary costs (social security, pension and medical insurance contributions) are generally not payable in this respect, provided that the options have been held for at least 1 years prior to exercising.

A qualifying share issuance on the basis of an employment relationship offers the possibility to issue shares to employees in a tax efficient manner. The subscription of shares in this respect triggers taxation for the employee only to the extent that the subscription price is below the mathematical value of the shares (broadly speaking referring to the book value of equity per share).

R&D Incentives: Finland offers R&D tax incentives to encourage business innovation and investment in new technologies. These incentives are available to companies carrying out R&D activities where the R&D costs are subcontracted from a qualifying research organization within the EEA.

The temporary R&D tax incentive law allows companies to claim additional tax deductions on R&D subcontracting costs from 2021 to 2027. Initially, the deduction was 50% in 2021, but it was increased to 150% for 2022-2027. The deductible amount ranges from EUR 5,000 to EUR 500,000 annually. To qualify, costs must arise from R&D cooperation between the taxpayer and a research organization, based on subcontracting invoices linked to contracts signed on or after 1 January 2021. Deductions are not available if the company has received public subsidies for the same R&D activities.

From 1 January 2023 onwards, a new law offers a combined R&D tax incentive. It includes a general additional deduction of 50% on R&D-related salaries and service expenses, with a cap of EUR 500,000 and a minimum of EUR 5,000. An added deduction of 45% is available for increased R&D activities, capped at EUR 500,000, with no minimum. These deductions cannot overlap with those claimed under the temporary law or for expenses covered by public subsidies.

TAX/FUNDING, CONT'D

Startup Funding
In Finland, startups have a range of options for securing funding at various stages of growth. Here are the main sources of startup funding in Finland:

Public Funding

Business Finland
Business Finland offers funding, advice, as well as information and contacts in the target market for startup companies with the most growth potential. Business Finland is a public sector operator. The basic services are free of charge. The startup services are generally intended for growth companies that have been operating less than five years. For example, the startup funding Tempo is intended for startup companies, not older than five years, having a new product or service idea with a committed team of at least two persons working in Finland. The funding constitutes of a grant that does not have to be paid back. The maximum amount of Tempo funding is EUR 60,000. Funding from Business Finland covers 75 per cent of project costs and can at most amount to EUR 80,000. Tempo call was closed in October 2023 for an indefinite period and the re-opening of the call will be announced later.

Information on the funding can be found here: https://www.businessfinland.fi/en/for-finnish-customers/services/funding/tempo-funding.

Innovative startup founders from outside the EU/EEA can apply for a renewable startup permit, which is initially issued for a maximum of two years. Before applying, Business Finland evaluates whether the suggested business model, team, and resources show potential for rapid growth. The Startup Permit does not include investments or financial support but once the permit is received, the start-up can benefit from a wide range of services and resources of Business Finland.

Information on the startup permit can be found here: https://www.businessfinland.com/establish-your-business/finnish-startup-permit/.

Finnvera
Finnvera is a state-owned financing company that provides loans and guarantees for different stages of business operations, such as setting up an enterprise, business growth and investments.

Further information on different financing options is available here: https://www.finnvera.fi/eng.

ELY Centres (Centres for Economic Development, Transport, and the Environment):
These regional organizations provide funding and advisory services for startups, especially in the early stages and for expansion and internationalization projects.

Further information on business funding is available here: https://elinvoimakeskus.fi//en/web/uudenmaan-yrityspalvelut/etusivu.

TAX/FUNDING, CONT'D

Public Funding, CONT'D

The Ministry of Economic Affairs and Employment
The Ministry of economic Affairs and Employment supports start-ups by providing grants ensuring the income for start-up entrepreneurs during the estimated time required to get the business up and running, up to a maximum of 12 months.

Further information on the grant is available here: https://tem.fi/en/start-up-grants.

In relation to IP rights, the European Union Intellectual Property Office (EUIPO) offers financial support to small and medium-sized companies to protect their intellectual property under the" Ideas Powered for Business SME Fund" grant programme applicable both for national and EU applications.

Further More information on the EUIPO financial support can be found here: https://www.euipo.europa.eu/en/sme-corner/sme-fund/2026.

Private Funding

There are also other forms of funding offered to startups. For example FiBAN, Finnish Business Angels Network, is a non- profit association of private investors that enables startups to seek funding by matching potential growth companies with private startup investors free-of-charge. Applications are accepted from all over the world , but startups located in Finland may have access to additional funding opportunities. FiBAN is one of the largest and most active business angel networks in Europe with over 600 approved investor members. Information on FiBAN can be found here: https://fiban.org/.

Finland also boasts a dynamic venture capital landscape, with several prominent firms actively investing in startups across various sectors. Some significant VC funds include:

- Innovestor, providing funding for early-stage technology and life science & health startups (https://innovestorgroup.com/)
- Inventure, a Nordic venture capital firm investing in early-stage technology companies (https://www.inventure.vc/)
- Lifeline Ventures, an early stage sector agnostic venture capital firm (https://www.lifelineventures.com/)
- Icebreaker.vc, focuses on early stage startups and particularly those in the technology sector (https://www.icebreaker.vc/)

WHAT ELSE?

Gambling

In Finland, only the state owned company Veikkaus Oy has been allowed to provide gambling services, However, the monopoly over the gambling market has been dismantled as of December 2025 when a new Gambling Act was approved by the Finnish Parliament. The new Gambling Act will enter into force 1 July 2027 and licensed gambling operations may be conducted as of that date.

The New Gambling Act provides for three types of licenses:

- Exclusive license: The current state-owned monopoly operator, Veikkaus (its to-be established affiliate), will retain some exclusivity over certain products such as lotteries, betting games, on-site slot machines and on-site casino games;
- Gambling license: Private operators will have the option of seeking a B2C license for fixed and variable odds betting , virtual betting, online casino games, online slot machines; and
- Game software license: The supply, manufacturing, installation and adaptation of game software for gambling purposes requires a game software license.

The New Gambling Act prohibits the use of game software for which its holder has not obtained a game software license. This means that gambling license holders may only use licensed software when offering their products

Retail Sales of Alcohol

There is a state monopoly on the retail sales of alcohol in Finland. Alko Inc. is a state-owned company which holds by law the exclusive right to the retail sale of alcoholic beverages containing more than 8 % alcohol by volume (Alcohol Act 1102/2017 (FI: “Alkoholilaki”)). The only exception is local produced beverages that can be sold, by the farmer, but only with an alcohol content not exceeding 13% alc. vol.



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FRANCE

LEGAL FOUNDATIONS

France has a civil law system based on a set of codified rules that are applied and interpreted by judges. French law is divided into two main branches:

Private law: Governs relationship between individuals and/or private legal entities and is applied by the courts of the judicial order. This order is organized around two types of courts:

The civil courts: are competent to settle disputes and repair damages but not impose any penalties. They are composed of three levels of jurisdiction: (i) the Commercial Courts, the Labor Courts and the Judicial Courts (ii) the Courts of Appeal and (iii) the Court of Cassation, which is the highest civil court.

The criminal courts: are competent to punish criminal offences against persons, property and society. They are composed of three levels of jurisdiction: (i) the Police Court, the Criminal Court and the Assizes Court (each applicable to a specific category of offenses) (ii) the Court of Appeal or the Appeal Court of Assizes, depending on the nature of the offense and (iii) the Criminal Division of the Court of Cassation, which is the highest criminal court.

Public law: defines the principles of functioning of the state and public authorities and is applied by the courts of the administrative order when a public person is involved. This order is based on three levels of jurisdiction: (i) the Administrative Tribunal (ii) the Administrative Court of Appeal and (iii) the Council of State.

In the French system, case law rarely has the effect of law. However, it can be invoked by the parties in support of their claims and constitute in this sense an indirect source of law, in the same way as custom or doctrine.

CORPORATE STRUCTURES

There are two main categories of companies under French law: commercial companies and civil companies.

There are 8 types of commercial companies:

- Société Anonyme (SA) – (Public limited company)
- Société à Responsabilité Limitée (SARL/EURL) – (Limited liability company)
- Société par Actions Simplifiée (SAS) – (Simplified joint-stock company)
- Société en Nom Collectif (SNC) – (General Partnership)
- Société en Participation (SP) – (Joint venture company)
- Société en Commandite Simple (SCS) – (Limited Parnership)
- Société en Commandite par Actions (SCA) – (Limited Parnership with share capital)
- Société Européenne (SE) – (European Company)

CORPORATE STRUCTURES, CONT'D

In 2025, three most popular forms of commercial companies registered in France remain the SARL (73,013 new registrations in 2025), the SAS (210,586 new SAS registered in 2025) and the EURL) (195,773 new registrations).

A public limited company (SA) may be private or public. Shares of a public company can be traded publicly. Thus, public limited companies have more compliance requirements. A private limited liability company can be converted into a public company and vice versa. A change of company structure will usually trigger an obligation to comply with various legal and public notice requirements.

All other companies are usually categorized as civil. Subject to certain exceptions, only commercial companies should carry on businesses.

The key characteristics of the most common forms of French commercial companies are as follows:

Société Anonyme (SA)
Public limited company

Main Features: Appropriate form for a company whose shares are publicly traded. The SA's operation is largely regulated by law.

Number and quality of shareholders/partners: 2 to unlimited in unlisted companies. 7 to unlimited in listed companies. Shareholders can be either natural or legal persons.

Minimum share capital: 37,000 euros, contribution in cash and/or in kind.

Shareholder's/Partner's liability: Limited to their contribution to the share capital.

Management: In the SA, there are two types of governance, at the option of the shareholders:

- the SA managed by a board of directors: the management and direction are divided between three bodies:
  - The Board of Directors, comprising 3 to 18 members, is responsible for overseeing the management of the company, setting the company's strategic direction and ensuring that it runs smoothly.
  - The Chairman of the board of directors, appointed by the Board of Directors from among its members, is responsible for ensuring that the company's corporate bodies function properly,
  - The Chief Executive Officer, who has full powers to manage the company and represent it in dealings with third parties.

    The functions of Chairman and Chief Executive Officer may be separated or entrusted to the same person. The Board of Directors may choose to combine or separate these two forms of organisation, subject to the conditions laid down in the by-laws (statuts) and must inform the shareholders and third parties accordingly.

- the SA managed by a Management Board and a Supervisory Board:
  - the Management Board, comprising no more than 5 members, appointed by the Supervisory Board, has full powers to manage the company. The Chairman of the Management Board represents the company in dealings with third parties,
  - the Supervisory Board, comprising 3 to 18 members, appointed by the shareholders, exercises permanent control over the Management Board.

CORPORATE STRUCTURES, CONT'D

Société à Responsabilité Limitée (SARL)
Limited liability company

Main Features: Recommended for small and medium-sized companies. The SARL's operation is largely regulated by law.

Number and quality of shareholders/partners: 1 (called a "EURL") to 100. Shareholders can be either natural or legal persons.

Minimum share capital: No minimum, contribution in cash and/or in kind.

Shareholder's/Partner's liability: Limited to their contribution to the share capital.

Management: The SARL can be managed by one or more managers, who can only be natural persons.

Société par Actions Simplifiée (SAS)
Simplified joint-stock company

Main Features: Very flexible since its functioning is largely determined by the shareholders (very free drafting of the by-laws). SAS cannot be listed on a stock exchange.

Number and quality of shareholders/partners:
1 (called a "SASU") to unlimited (above 150, the company will have to comply with regulations on public offerings). Shareholders can be either natural or legal persons.

Minimum share capital: No minimum, contribution in cash and in kind.

Shareholder's/Partner's liability: Limited to their contribution to the share capital.

Management: The SAS is managed by a single President, who can be a natural or legal person. He/She/It can be assisted, if need be, by managing directors and deputy managing directors. Other specific management or supervisory bodies, such as a board of directors, may be set up in the bylaws.

Benefits of an SAS
The SAS is the most commonly used type of company in France (69,90% of the companies newly incorporated in 2024 were SAS), especially for start-ups.

The reasons for adopting the SAS form are as follows:

- The SAS only needs to have a single shareholder and one president (a foreigner, e.g. US resident, can be a shareholder and the president at the same time of an SAS);
- If the company has more than one shareholder, the by-laws may freely organize the relationship and the specific rights of the different shareholders; the by-laws may also freely organize the management and operations of the company; as a result, the SAS is the corporate form that provides the greatest flexibility;
- The shareholders' liability for the losses of the company are limited to their contribution to the share capital;
- There is no minimum capital requirement (subject to specific situations and regulations).

CORPORATE STRUCTURES, CONT'D

Société par Actions Simplifiée (SAS), CONT'D

Simplified joint-stock company

Benefits of an SAS, CONT'D

The documentation to create an SAS is limited (the main document being the by-laws) and the legal formalities are simplified.

The by-laws and other incorporation documents may be signed by means of an electronic signature.

In respect of the deposit of the initial share capital, the founding shareholder(s) must appoint a French bank to receive the funds representing the initial share capital of the company. The bank will need certain documents and information, such as the draft by-laws, the list of shareholders with their full names and addresses (and possibly other information for the bank's KYC procedure), the amount of their paid-in contribution and the number and classes of shares subscribed.

Formalities for Incorporation: The formalities for incorporation are carried out online.

- Registration and incorporation: The by-laws must be registered within one month of being signed and filed with the other incorporation documents at the "Guichet unique" (online platform)
- Public Announcement: An announcement must be published in a legal media setting out the details of the company.
- Effective beneficiary(ies): Any natural person holding, directly or indirectly, 25% or more of the share capital of the company must be registered as its effective beneficiary(ies), with certain details including his/her personal address. Any changes in this situation must be reported to the Registry of the Commercial Court.

Incorporation documents: Several documents must be attached to the application for incorporation (e.g. statement of receipt of funds delivered by the bank, list of shareholders, proof of address of registered office; bylaws).

ENTERING THE COUNTRY

Pursuant to the French Monetary and Financial Code certain foreign direct investments (FDI) are subject to review and prior authorization by the Minister of the Economy. The objective of this control is to ensure that foreign direct investments in sensitive business sectors do not create risks to public order, public security or national defense.

The sectors of activity covered by the FDI controls principally include the following: military/national defense, essential infrastructure, networks, goods or services (e.g. energy, water, public health, food security, press…), critical technologies (e.g. cybersecurity, artificial intelligence, robotics, semi-conductors, cryptology, dual-use items …).

Three cumulative conditions must be met for a foreign direct investment to be subject to prior review by the Ministry of the Economy:

1. a foreign entity is present in the ownership chain of the direct acquirer,
2. the investor (i) acquires control, (ii) acquires all or part of a business line or (iii) crosses (a) the 25% threshold of voting rights in non-listed French legal entity, or (b) the 10% threshold of voting rights in a listed French legal entity (note that the third scenario only applies to investors from outside the EU/EEA), and
3. the French target company has business activities (i) in one of the sectors listed above and (ii) that could jeopardize public order, public safety or national defense.

ENTERING THE COUNTRY, CONT'D

Reinforcement of FDI controls in 2024

The scope of control has been extended since January 1st, 2024. Takeovers of branches of foreign-registered entities engaged in sensitive activities are now to be subject to control, in order to guard against possible strategies for circumventing FDI regulations. New sectors are also covered:

- extraction, processing and recycling of critical raw materials
- research and development activities in photonics and low-carbon energy production technologies, when they are intended for implementation in one of the sectors covered by the regulations; and
- activities essential to the security of prisons.

Are also covered, research and development relating to critical technologies including: cybersecurity, artificial intelligence, energy storage, biotechnologies, semiconductors, quantum technologies and photonics.

Procedure

The control procedure by the French Ministry of the Economy takes place in two phases within a maximum regulatory period of 75 business days. The operations can be directly authorized or authorized subject to conditions to be met by the investor (e.g. preservation of the workforce or a prohibition on relocation) for a determined period after the closing. The setting of any conditions must be justified by and proportionate to the protection of public order, public safety or national defense.

In 2024, 392 transactions were subject to FDI controls in France, compared with 309 in 2023, 325 in 2022, 328 in 2021 and 275 in 2020. In 2023, 182 transactions were authorized by the Minister for the Economy, 99 were authorized subject to conditions. In addition, over the past three years, the French Ministry of the Economy has also issued six refusal decisions. The 2025 figures are not published yet.

The applicable regulation also provides that both the investor and the French target entity may seek an opinion from the administration on whether a business activity requires screening from the administration before initiating an investment transaction in order to confirm whether the French entity's business activities fall within the scope of the of the FDI screening in France (article R. 154-4 of the French Monetary and Financial Code). The Minister of the Economy will decide within two calendar months. The opinion request and the request subject to the FDI screening procedure may not be filed simultaneously.

INTELLECTUAL PROPERTY

In France, intellectual property rights can be acquired with or without formality.

Intellectual property right that requires formalities:

Trademarks

Object of protection: A trademark is a distinctive sign that can take various forms such as a word, a slogan, numbers, a logo, a drawing, a sound, a combination of images or a jingle and that is used to distinguish goods and/or services.

Requirements for protection: To be eligible for protection under trademark law, the chosen sign must be distinctive, available, not deceptive and in conformity with public policy.

Duration of protection: The protection conferred by trademark law offers its author a monopoly of use for a period of 10 years, renewable indefinitely.

Cost of protection: The cost of filing a trademark for protection in France depends on the number of classes selected: EUR 190 for one class and EUR 40 for each additional class. EUR 60 will be also added in case of extension of the protection to French Polynesia.

INTELLECTUAL PROPERTY, CONT'D

Trademarks, CONT'D

Procedure: The trademark can be registered, depending on the planned territorial protection, with (i) the French trademark office - Institut National de la Propriété Intellectuelle (INPI), (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO), France being a member of the Madrid system. Trademark applications for France are only made online on the https://procedures.inpi.fr/?/ platform. The French trademark application is then published in the Bulletin Officiel de la Propriété Industrielle (BOPI) for a two-months period, during which time any third party may file an opposition against its registration on the one hand and the INPI carries out its own examination on the other hand. If there is no opposition from third parties and no objection from the INPI, the French trademark is registered.

Patents

Object of protection: A patent protects a product or a technical process that provides a new technical solution to a technical problem.

Requirements for protection: In order to be protected by patent law, the invention must be new, involve an inventive step, be susceptible of industrial application and not be expressly excluded by law (articles L.611-16 to L.611-19 of the Intellectual Property Code).

Duration of protection: The patent holder benefits from a monopoly of use for a maximum period of 20 years.

Cost of protection: Between 1 and 10 claims, the cost of filing is EUR 636 (EUR 26 for the filing, EUR 520 for the search report and EUR 90 for the issuance). Beyond that, it will cost EUR 42 for each additional claim. In order to keep the patent in force, an annual fee must be paid, the amount of which is progressive (from EUR 38 the first year to EUR 800 the twentieth).

Procedure: The patent can be registered, depending on the planned territorial protection, with (i) the INPI, (ii) the European Patent Office (EPO) or (iii) WIPO. The application for a French patent must be filed online on the https://procedures.inpi.fr/?/ platform. The patent application is transmitted for examination to the Ministry of Defense, which has a five-month period to decide whether to keep the patent secret if it is in the national interest to delay or prevent its disclosure. If not, the Ministry of Defense issues an authorization for disclosure of the invention. The INPI then carries out its own examination and issues a preliminary search report as well as an opinion on the patentability of the invention before publishing the application in the BOPI for a three-months period. Finally, the INPI establishes a final search report and, if all the conditions are met and the fee has been paid, issues the patent.

Designs

Object of protection: Designs (2D) and models (3D) protect the appearance of an industrial or artisanal product characterized by its lines, contours, colors, shape, texture or materials.

Requirements for protection: In order to be protected by design law, the design must be new and have individual character, the applicant must be legitimate and the protected elements must be visible during the normal use of the product by the consumer.

Duration of protection: The owner of the registered design or model benefits from a monopoly of use for a period of 5 years, renewable in 5-year increments, up to a maximum of 25 years.

Cost of protection: The cost of filing a design is EUR 39 (EUR 52 extra if you want to protect it for 10 years). For each reproduction, it will be necessary to add EUR 23 for black and white and EUR 47 for color designs/models

INTELLECTUAL PROPERTY, CONT'D

Designs, CONT'D

Procedure: The design can be registered, depending on the planned territorial protection, with (i) the INPI, (ii) the EUIPO or (iii) WIPO. The application for registration of a French design must be filed online on the https://procedures.inpi.fr/?/ platform. The INPI examines the design/model filing on the form and on the substance. If there is no objection from the INPI, the model is registered.

Intellectual property rights that do not require any formalities:

Copyright

Object of protection: Copyright (called "author's rights" in France) protects literary works, in particular graphic, sound, or audiovisual and sculptural creations, musical creations but also software, creations of applied art, fashion creations, etc.

Requirements for protection: The protection conferred by copyright is acquired without formality. The work is protected by the very fact of its creation, regardless of its form of expression, type, merit, or purpose. However, in order to be protected, the work must be a human creation and, above all, be original. That being said, in order to establish proof of the date and content created, it is prudent to make one or more filings of the copyrighted material with a neutral third party such as an escrow agent.

Rights conferred by the protection: Copyright offers to its holder (i) moral rights (such as a right of attribution), which are perpetual, inalienable, and imprescriptible) and (ii) economic rights, which allow the author to prohibit or authorize the use of his work and get paid for it.

Duration of protection: Moral rights are perpetual. Economic rights last for the lifetime of the author and last, for his/her beneficiaries, for 70 years after the author's death.

Secrets

Object of protection: Secrecy does not offer any real private right but allows to protect commercially valuable information through the absence of disclosure. The protection of business secrets covers, in a non-limitative way, know-how, commercial strategy, technical knowledge, and trade secrets.

Requirements for protection: To be protected by business secrecy information (i) must not be generally known or readily available to those familiar with a particular industry, (ii) must have actual or potential commercial value, and (iii) must be subject to reasonable safeguards. Trade secrets have been formally recognized and protected by law in France since 2018. Any infringement of a trade secret engages the civil liability of its author.

Duration of protection: Secrecy confers on its holder a protection unlimited in time, as long as the secrecy is maintained.

Useful Tools: In order to ensure effective protection of secrecy, it may be appropriate to set up computer system protection, a confidentiality policy and access controls to such information.

DATA PROTECTION/PRIVACY

In France, data protection is regulated by French Law No. 78-17 of 6 January 1978 on Information Technology, Data Files and civil Liberties, as amended by Law No. 2018-493 of 20 June 2018 ("French Data Act"), which implemented the changes required by the GDPR. Moreover, the French national supervisory authority, the 'Commission Nationale de l'Informatique et des Libertés' ("CNIL"), may issue recommendations based on the foregoing texts. While those recommendations are not binding, they are influential and give an idea as to the CNIL's interpretation of the law.

With the French Data Act of 1978, France was one of the first European countries to adopt an effective arsenal of personal data protection to protect data subjects when their personal data is processed. In this respect, the GDPR was inspired by the French Data Act, as well as other European texts such as the German of Spanish Data Acts. This explains why there are few divergences between the GDPR and the French Data Act and why the French legislator has made little use of the opening clauses.

However, there are the following French specificities that result from the new French Data Act or other texts such as the French Law No. 2016-1321 of 7 October 2016 for a Digital Republic:

Age of consent: The threshold for digital majority is set at 15 years. Below this age, while the GDPR only provides for the consent of the holder of parental responsibility, French law retains the joint consent of both the minor and the holder(s) of parental responsibility.

Post-mortem right: French law gives the data subject an additional right to those under the GDPR, allowing him/her to provide directives to organize what happens to his/her digital identity and personal data after his/her death. In such a case, the data subject may designate a person to carry out the directives. Otherwise, after his/her death, the heirs may exercise his/her rights of access, opposition and rectification and proceed to the closure of the deceased's accounts.

Prior formalities: While the GDPR replaces the formalities vis-à-vis the supervisory authorities with the principle of accountability, which requires the data controller to be able to demonstrate the lawfulness of the processing carried out, French law maintains prior formalities (authorization/declaration) with the CNIL as an exception for:

- Processing involving the registration number of data subjects in the national register of identification of natural persons(NIR), with some exceptions;
- Processing of genetic or biometric data necessary for authentication or identity control implemented on behalf of the French State;
- Processing implemented for the purposes of public security or safety, public defense or the prevention and repression of criminal offenses;
- Processing of health data justified by a public interest purpose.

Automated individual decisions: Beyond the GDPR provisions on automated individual decision-making, the French Data Act provides specific rules for the use of algorithms by public authorities.

Exempt processing: certain provisions of the GDPR do not apply to processing for academic, artistic, literary or journalistic purposes where such a derogation is necessary to conciliate the right to data protection with freedom of expression and information.

Commercial prospection: Commercial prospection by telephone or post does not require the data subject's consent but requires the data subject to be informed of the use of his/her data for this purpose and to be able to opt out of receiving prospecting messages in a simple and free manner. With regard to e-mail, SMS and MMS, a distinction must be made between B2C and B2B relations. In the first case (B2C), the data subject's prior consent is required unless (1) the consumer already purchased products or services from the advertiser and the commercial prospection concerns similar products or services or (2) the prospection is not commercial by nature (e.g.: a charity). In the second case (B2B), commercial prospection does not require the data subject's consent and may be based on the advertiser's legitimate interest. In both cases, the advertiser must (1) specify its identity and (2) propose a simple way to opt out of receiving other prospecting messages. Since March 1st, 2023, commercial prospection by phone is only allowed from Monday to Friday, from 10 a.m. to 1 p.m. and from 2 p.m. to 8 p.m.

ARTIFICIAL INTELLIGENCE

The **EU Artificial Intelligence** (AI) Act was published on July 12, 2024, and is in force since 1st August 2024 in France according to the EU calendar (cf. Umbrella Chapter AI). To clarify the applicable rules, the CNIL published on April 8, 2024, and February 7, 2025, some recommendations for the use of AI that respects personal data and data subjects' rights, aimed at helping professionals to implement innovative and responsible development of their AI systems. In July 2025, the CNIL released its latest AI guidance sheets, detailing the applicability of the GDPR to models, the security requirements, and the conditions for annotating training data. Its work will continue with sectoral analyses and tools for assessing compliance.

The French government is also supposed to implement, before 9 December 2026, the new provisions introduced by the draft "**Directive on Liability for Defective Products**" of October 23 2024, which repeals the previous directive of July 25, 1985 on the same subject and contains specific articles concerning AI use. This text reduces the burden of proof for victims in complex cases, such as those involving intelligent products or products using AI. Another legislative proposal has also been adopted – the "**Directive on adapting the rules on non-contractual civil liability to the field of artificial intelligence**" aimed at facilitating compensation in the event of damage caused by AI.

To date, there are **no other French legal restrictions or deviations specifically related to AI**.

Several general provisions of French law may provide safeguards for AI use, although numerous grey areas remain, and further efforts are required to address the challenges posed by AI. The following examples illustrate how some existing texts could potentially apply to AI, subject to appropriate adjustments:

- **Anti-discrimination:** French law prohibits discrimination in hiring, promotions, and working conditions. While these prohibitions could apply to AI, the CNIL (the French data protection regulatory authority), in its May 2023 AI action plan, reiterated the need to protect against bias and discrimination. It also published new guidelines on the use of algorithms and AI in relation to human resources.
- **Copyright:** The EU AI Act provides a specific regulatory framework concerning copyright and AI. The French High Council for Literary and Artistic Property (CSPLA) has been tasked with addressing these matters. In its first mission report, the CSPLA proposed a model encouraging AI providers to publicly disclose information on harvested copyright-protected content, datasets obtained from third parties, prompts, and generated content in a mandatory "detailed summary".
- **Data protection:** Under the French Data Protection Act, individuals have the right not to be subject to automated decisions (including those based on AI) unless explicit consent has been obtained, the decision is necessary for a contract, or it is authorized by law.

Some sectors are also subject to specific restrictions, such as:

- **Healthcare:** Processing health data requires prior authorization from the CNIL.
- **Justice:** The use of predictive justice tools or decision-making algorithms is strictly prohibited. These tools use data analysis to help lawyers and judges make more informed decisions by assessing a case's chances of success, the legal strategies to adopt or the most convincing arguments to present, by quantifying the judicial risk and presenting reasonable anticipations of judicial decisions. These tools could indeed (i) help in the calculation of compensation scales (e.g. damages or pension or compensatory allowance), (ii) provide statistics based on comparable cases, (iii) help quantify the risk of litigation, by estimating the percentage of successful cases and (iv) help resolve certain disputes that are simple, repetitive and of low value (e.g. consumer, neighborhood or redundancy). Despite the current prohibition, a number of factors seem to be converging to open up new horizons for predictive justice, such as the European Union's interest in AI and the opening up and online publication of all judicial and administrative decisions (open data) by the end of 2025 in France, which could open up unprecedented opportunities for the use of AI tools to support predictive justice.

EMPLOYEES/CONTRACTORS

General - Employees

The parties to an employment contract are generally free to determine the law applicable to their contractual relationship. When an employment contract is signed between a foreign entity and an employee in France, the parties may designate the law applicable to the employment contract.

However, the choice of the law applicable to the contract must not deprive the employee of the protection resulting from the mandatory provisions of the law which would be applicable in the absence of choice.

The law applicable to the contract in the absence of choice by the parties is generally that of the country in which the employee performs their work under the contract.

In France, employment contracts are regulated by the French labour Code and by collective bargaining agreements. The provisions of the latter are designed to apply to specific industries and relate to basic issues such as the durations of the trial and notice periods, the amount of the dismissal indemnity, the employee classification, minimum salaries etc. When applicable law and the collective bargaining agreement provide differently, the most favourable rule is applied to the employee.

An employment contract is deemed to have been entered into when the following three cumulative conditions are met:

- the performance of a service,
- in return for a remuneration, and
- a subordinate relationship between the employer and the employee (i.e. the employer has the power to give directives and orders to the employee and to sanction their violation).

Pursuant to French Labor Law, a written employment contract is not systematically required, although it is highly recommended to prove the parties' rights and obligations. It can be mandatory in specific situations expressly listed by employment law (fixed-term or part time contract, etc.). All written employment contracts concluded in France must be drawn up in French. If the employee is a foreign national, he or she may request a translation of the contract in his or her own language.

In addition, the employer must provide an employee with one or more written documents specifying the main elements of their contractual relationship.

Specific information must also be sent to employees who normally carry out their professional activity in France and who are called upon to work abroad for more than 4 consecutive weeks.

Immigration and Social Security Compliance

Right to work: Where the employee is not a national of an EU/EEA Member State or Switzerland, the employer must ensure that the individual holds a valid work authorisation prior to commencement of employment. The employer must carry out prior verification formalities with the French authorities. Employing a foreign national without proper authorisation may result in significant administrative fines, criminal sanctions and potential prohibition from conducting business activities in France.

EMPLOYEES/CONTRACTORS, CONT'D

Immigration and Social Security Compliance, CONT'D

URSSAF registration and payroll compliance: A foreign entity employing an individual working in France must register with the French social security authorities, in particular with URSSAF (Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales), prior to the commencement of employment.

The employer must carry out a mandatory pre-employment declaration (Déclaration préalable à l'embauche – DPAE) and comply with ongoing payroll reporting obligations (notably through the monthly DSN – Déclaration sociale nominative).

Failure to comply may result in reassessments of social contributions, late payment penalties, financial surcharges and, in serious cases, criminal liability for concealed work (travail dissimulé). Employer social security contributions are substantial and significantly increase the overall cost of employment.

General – Staff representative

When a company has employed at least 11 employees over the last 12 consecutive months, it must implement a works council (comité social et économique (CSE)), whose powers include submitting individual or collective claims to the employer regarding wages or the application of Labor law. When a company has employed at least 50 employees over the last 12 consecutive months, the works council has more powers, including a right to be informed and consulted before the implementation of some company projects.

General - Contractors

A company can execute an agreement with independent contractors to perform services.

To retain the classification as a contractor, courts will analyse the facts and will not be bound by the title given to the agreement by the parties. Indeed, the contractor must remain autonomous, independent and act freely, and the company must refrain from giving directives, otherwise the contractor could lodge a claim to have the contract be re-classified as an employment contract, entailing the application of employment rules (in particular regarding working time or termination) and social security rules (regarding social security payment), and, in some situations, criminal sanctions.

For-profit lending of employees is prohibited under French law and may give rise to criminal sanctions except under very strict conditions e.g. interim employment. Therefore, great attention should be paid when executing a contract for the provisions of services.

In addition, in the case of subcontracting, the principal (or project owner) has a duty of vigilance, which requires it to ensure, when concluding a contract worth at least €5,000 excluding tax, and every 6 months until the end of its execution, that its subcontractor fulfils its social security and tax declaration obligations in France and is up to date with its "URSSAF" payment obligations (social security).

If the principal fails in its duty of vigilance and its subcontractor is fined e.g. for concealed work, the principal is jointly and severally liable with it for the payment of various sums (taxes and compulsory contributions, penalties and surcharges owed to the Treasury and social security bodies, etc.).

Termination of the employment contract

Pursuant to French Labour Law, the employer terminates the employment contract by means of a dismissal, or a mutually agreed termination of contract. The employee may also initiate the termination by asking for an agreed termination or handing in their resignation.

When an employer decides to dismiss an employee, the dismissal must be based upon "real and serious grounds" (whether economic or personal), and be implemented following a specific procedure usually involving a convocation to a pre-dismissal meeting, (during which both parties have the opportunity to explain their arguments concerning the grounds for the termination), and the sending of a detailed dismissal letter with acknowledgement of receipt to the employee. However, if an employee falls within a protected class (pregnant women, employee representatives, occupational health doctors, labor court councilors, etc.), the employer will have to comply with specific additional procedures or waiting periods.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of the employment contract, CONT'D

In addition, it is forbidden to dismiss an employee on discriminatory grounds (state of health, age, sexual orientation, disability, origin, physical appearance, etc.). Failure to comply with this rule renders the dismissal null and void and entitles the employee to reinstatement and damages.

Works Created in the Course of Employment:

The French Intellectual Property Code ("FIPC") sets out all the rules applicable to any works created by employees. Several situations must be distinguished according to the type of creation, as detailed below:

Copyright

In general, employees remain the exclusive owners of the copyright (economic rights) in works that they created, unless an assignment agreement is signed and/or a specific clause in the employment contract assigns rights to the employer.

By way of exception, copyright (economic rights only) in the work is automatically vested in the employer in the following cases:

1. software and its documentation created in the performance of their duties or pursuant to the instructions of their employer;
2. work made by a journalist who contributes on a permanent or occasional basis to the preparation of a press title, whether or not the work is published;
3. work made by a public official in the performance of his or her duties or in accordance with instructions received, to the extent strictly necessary for the performance of a public service task;
4. work made at the employer's request and by several employees of the company without it being possible to attribute to each of them a separate right in the whole (called "collective works").

Patent

If an employee creates an invention in the course of his/her duties (while executing missions with an inventive duty or pursuant to studies or research explicitly entrusted to him/her) during his or her working time, it will belong to the employer. In consideration of this invention, the employee will be entitled to compensation.

If the above conditions are not met, an employee's invention will belong to him or her unless the employee has created it during the performance of work duties, in the activity or in the field of the employer, through the knowledge of documents or studies belonging to the employer, or with material installations belonging to the employer, in which cases the employer can claim ownership of all or a part of the invention. In these situations, the employee will be eligible to receive fair compensation.

CONSUMER PROTECTION

In France, consumer protection is mainly regulated by the Consumer Code, but also by other provisions, notably from the Civil Code and the Commercial Code.

Price reductions: Pursuant to the Consumer Code any announcement of a price reduction must indicate the price preceding the reduction, i.e. the lowest price applied during the thirty days preceding the reduction. By derogation, in case of successive reductions, the previous price is the one applied before the first price reduction.

Online contracting: Contracts with consumers concluded over the Internet are strictly regulated.

- **Withdrawal period:** the consumer has a period of 14 days from the conclusion of the contract or receipt of the goods to change his/her mind about the purchase made/service required, allowing him/her to cancel the contract without giving any reason. There are a number of logical exceptions to this requirement (e.g., for software or for goods specifically personalized for a consumer).
- **Withdrawal button:** as of June 19, 2026, professionals entering into distance consumer contracts via an online interface will be required to provide consumers with a functionality enabling them to exercise their right of withdrawal directly online. They must provide a clearly visible online withdrawal button that remains accessible during the entire withdrawal period. When the consumer clicks it, they must be able to review their contract details, confirm their decision through an explicit confirmation step, and then receive confirmation of withdrawal.
- **Online cancellation:** pursuant to a 2023 law, professionals who offer consumers the possibility of subscribing to a contract electronically must provide a means to cancel online via a "cancellation" button.
- **"Double click" obligation:** The online order is concluded only after a validation (first "click") and a final confirmation (second "click"), during which the consumer can check the details and modify his/her order.

Unfair terms: A consumer (or a consumer association) can ask a court to annul any term in a B2C contract that creates a significant imbalance in the rights and obligations of the parties (called “unfair terms”). In addition, the French Consumer Code provides two non-exhaustive lists of unfair terms: “black” terms and “grey” terms. The ‘black list’ contains twelve terms that are irrefutably deemed unfair. Examples include terms allowing the supplier to unilaterally alter the terms of the contract, hindering the pursuit of legal remedies or limiting the liability of the supplier. The “grey list” contains ten terms which are presumed unfair unless proven otherwise. Examples include provisions allowing the professional to terminate the contract without a reasonable prior notice period or imposing on the consumer in breach an indemnity that is manifestly disproportionate.

Misleading commercial practices: Pursuant to the Consumer Code, some commercial practices are deemed misleading with regard to the consumer and therefore prohibited. Regarding e-commerce sites and marketplaces, the French Consumer Code notably deems as misleading commercial practices the failure to provide the following information, considered as substantial: (i) information on whether or not the seller offering products on a marketplace is a professional, (ii) information on the main parameters influencing the ranking and priority of products offered online and likely to be searched for online via a keyword query, it being specified that this information must appear in a specific section directly and easily accessible from the page displaying the results of the query, and (iii) information on whether and how the professional who provides online consumer reviews verifies that these reviews have been provided by consumers who have used or purchased its products.

- **“Shrinkflation”:** In the food distribution sector, according to a 2024 decree, professionals are now required to provide clear and prominent information for consumers when the nominal quantity of a prepackaged consumer product has been reduced, especially if this reduction leads to an increased price per unit of measurement.

CONSUMER PROTECTION, CONT'D

Disputes: In case of a dispute, consumers are allowed to contact a consumer association, to ask for help from the consumer mediator, to go to court and/or to report the case to the French authority in charge of consumer affairs and fraud control (DGCCRF).

- **Consumer associations:** consumer associations can initiate class actions against professionals in order to defend the right of consumers.
- **Consumer mediator:** professionals have the obligation to provide consumers with the option to resolve disputes by means of mediation. Each professional may set up its own consumer mediation system or offer the consumer access to any other consumer mediator who meets the requirements of French law. The professional must provide the consumer with the contact details of the relevant mediator.

TERMS OF SERVICE

The mandatory information required in online Terms of Service differs depending on whether they are intended for a professional or a consumer:

B2B Terms of Service: The mandatory information are the following:

- Prices and/or price lists, possible discounts and payment terms,
- Consequences of late payment (including the interest rate for late payment penalties and fixed compensation for collection costs),
- Guarantees, conditions for their enforcement, name and contact details of the professional that provides guarantees and, where applicable, guarantee exclusions.
- When applicable, i.e. for very small companies (fewer than five employees), when the agreement between the professional is concluded off-premises and does not concern the professional's main field of activity – provisions regarding the right of withdrawal (withdrawal period, withdrawal procedure, etc.).

B2C Terms of Service: The mandatory information are the following:

- Essential features of the services,
- Prices and/or price list, possible discounts and payment terms, Date or deadline for service delivery,
- Professional identity and contact details and information regarding the legal entity (status and legal form, registration number, intra-community VAT number when applicable),
- Possibility of contacting a Consumer Ombudsman and its name and contact details,
- Guarantees, conditions of implementation of guarantees, name and contact details of the professional that provides guarantees and, where applicable, guarantee exclusions,
- Returns and the right of withdrawal. Consumers must be informed not only about the existence of the right of withdrawal, but also about the possibility of exercising it electronically.
- If the services are provided under a regulated or licensed activity, name and address of the authority which has issued the authorization, professional title and European State of issue and name of the relevant professional association or body,
- Reference to the professional liability insurance and territorial scope of the insurance; Applicable law and competent courts.

In addition to the mandatory information listed above, some specific types of contracts can require the supply of additional information (e.g. online contracting notably involves the supply of information regarding the right of withdrawal of the consumer).

Beyond these mandatory clauses, it is customary to include in the Terms of Services, whether B2B or B2C, provisions regarding liability, data protection, confidentiality, intellectual property, etc. Compliance with AI regulation will most likely also appear in those Terms of Services.

TERMS OF SERVICE, CONT'D

In both B2B and B2C situations, the client must be able to read, print and store the Terms of Service at the time of conclusion of the contract. B2B Terms of Services must be provided to any professional client who requests them. Regarding B2C Terms of Services, the customer must expressly accept the general conditions (preferably via a tick box).

Failure to comply with such rules are punishable by a fine of up to €15,000 for an individual or up to €75,000 for a legal entity.

TAX/FUNDING

French start-ups are typically organized in the legal form of corporations. Therefore, we limit our tax overview to investment into start-ups organized as a French corporation.

Corporate Income Tax: French corporations are subject to a flat tax at a rate of 25%. Taxable profits in France, according to the principle of territoriality, are those arising from operations in France and those allocated to France by an international treaty.

The latest version of the 2026 finance bill, on which the government has staked its authority, maintains the "exceptional contribution" on the profits of large companies created by the initial 2025 finance bill and will finally apply to the first two financial years ending on or after December 31, 2025, i.e. the 2025 and 2026 financial years for companies whose financial year is aligned with the calendar year, as follows:

Turnover in Billion	% of Temporary Surcharge	Effective Tax Rate
1 ≤ T.O < 3 €	20,60 %	30,975 %
T.O ≥ 3 €	41,20 %	36,125 %

Withholding Tax on French Derived Income

- **Dividends:** No withholding tax applies if dividends are paid to a parent company within the EU holding more than 5% of the subsidiary. A limited withholding tax (ranging from 0% to 25%) applies if the parent company is based outside the EU, subject to double tax treaties. This rate increases to 75% for distributions to entities in a non-cooperative jurisdiction ("ETNC").
- **Interest:** Generally, no withholding tax is applied to interest paid to a foreign company, except when the payment is made to an entity located in an ETNC.
- **Royalties:** A limited withholding tax (usually between 0% and 25%) applies to royalties paid to a foreign company, depending on the provisions of existing tax treaties.

France has signed more than 120 tax treaties to avoid double taxation between the country where the income or assets are located and the country where the beneficiary is domiciled. This double taxation is generally avoided through a mechanism known as a tax credit, which allows the taxpayer (in the beneficiary state) to offset the tax owed in their state of residence by all or part of the tax paid in the State of source.

Note: A punitive tax system applies to companies established in a "Non-Cooperative State or Territory" (ETNC). Lists of these jurisdictions are published annually by both the French government and the European Union.

TAX/FUNDING, CONT'D

VAT

The French VAT law is based on the 6th EU VAT Directive. Companies have to charge French VAT for the supply of goods or services but are also entitled to deduct input VAT for the supplies of goods and services they receive.

The VAT rates applicable to companies in France are as follows: 20% (standard rate) for most goods and services, 10% (reduced rate) for certain food products, restaurants, and transport, 5.5% (reduced rate) for essential goods like water, electricity, and books, and 2.1% (super-reduced rate) for specific pharmaceutical products and press publications.

Companies have to file monthly or quarterly VAT returns between the 15th and 24th of each month following the month concerned.

The balance of the VAT due and the input VAT deducted has to be paid to the tax office (if VAT burden) or is refunded by the tax office (if in a net input VAT position) through the electronic tax account of the company.

Other Taxes:

- **Territorial Economic Contribution ("CET"):** it includes the Corporate Value-Added Contribution ("CVAE") and the Corporate Property Contribution ("CFE"). The CVAE rate will gradually decrease until its complete abolition in 2030. CET is capped at 1.531% of the added value generated by the company for 2026-2027.
- **Corporate Social Solidarity Contribution ("C3S"):** Applies if the company's turnover exceeds €19 million, with a rate of 0.16% of the turnover.
- **Property Tax.**
- **Custom duties:** No customs duties within the EU (free movement of goods). Customs duties are applied when goods enter France from a non-EU country.

Funding/Incentive Programs

In France, there are a variety of funding and tax incentive programs which may be applicable to a startup, such as:

Tax Incentive

Research Tax Credit: The Research Tax Credit is a tax incentive designed to encourage companies to invest in research and development (R&D) activities by covering a portion of the related expenses. This credit applies to all industrial, commercial, and agricultural enterprises subject to the standard taxation regime or exempt from tax, subject to certain conditions. Innovative startups and companies located in designated areas, such as free zones or rural revitalization zones, are also eligible for the credit.

Eligible activities encompass fundamental research, applied research, and experimental development. Allowable expenses include salaries of researchers, depreciation of equipment used in R&D activities, and costs related to patents, prototyping, and partnerships with research organizations.

The research tax credit rate is dependent on the company's location: in mainland France, it is 30% for qualifying expenses up to €100 million, and 5% for expenses exceeding this threshold.

The credit is directly offset against the company's corporate tax or income tax liabilities. If the credit exceeds the amount of tax due, the excess can be carried forward for a period of three years, or, in certain cases, refunded immediately. Companies can apply for the credit via an electronic declaration.

TAX/FUNDING, CONT'D

Funding/Incentive Programs, CONT'D

Tax Incentive, CONT'D

IP Box regime: The optional IP Box regime, available to French companies or tax-integrated groups, offers a preferential tax treatment on income derived from the exploitation of intellectual property (IP) assets.

Under this regime, subject to specific conditions, net income from licensing or sales of patents, software, and similar intangible assets is taxed at a reduced corporate tax rate of 10%, compared to the standard rate of 25%.

The IP Box regime can be combined with the Research Tax Credit.

JEI status (Young Innovative Company): A new company that invests in research and development (R&D) benefits from the status of Joint Innovation Establishment (JIE). Eligible innovative SMEs (those that incur R&D expenses representing at least 20% of their costs) benefit from partial exemptions from corporate income tax and significant exemptions from social security contributions. Eligible expenses partly correspond to those retained under the research tax credit and the collaborative research Tax Credit.[1]

Government Grants

- **French Tech Grant[2]:**
  - Funding: Up to €30,000 funding, covering up to 70% of startup costs
  - Duration: Program lasting a maximum of 24 months
  - Eligibility:
    - Business incorporated within the last year
    - Less than 50 employees
    - Balance sheet under €10 million
  - Also available for sole proprietorships and entrepreneurs in accelerators or incubators
- **French Tech Emergence Grant[3]:**
  - Funding: Up to €90,000 funding, covering up to 70% of startup costs
  - Duration: Program lasting a maximum of 12 months, extendable to 18 months under certain conditions
  - Eligibility:
    - Deep tech startups incorporated within the last year
    - Fewer than 50 employees
    - Balance sheet under €10 million
- **Aide Au Développement Deeptech ("ADD")[6]:**
  - Funding: Up to €2 million per project (mix of grants and repayable subsidies) covering up to 45% of eligible costs
  - Duration: Program lasting a maximum of 36 months
  - Eligibility: Deep tech startups with fewer than 2,000 employees
  - Supports: Personnel costs, IP expenses, overheads, and Capex for deep tech projects

Loans

- **Startup Loan ("Prêt d'amorçage")[7]:** This loan supports startups preparing for fundraising with venture capital funds or investors. It requires no guarantee on the startup's assets or personal guarantee from the founder.
  - Funding: €50,000 to €100,000 (up to €300,000 with regional commitment) for 8 years
  - Eligibility:
    - Small innovative companies with fewer than 50 employees
    - Balance sheet or turnover under 10 million euros
    - Less than 5 years old
    - Startups which have received innovation aid under the Research, Development and Innovation (RDI) scheme

[1] https://bpifrance-creation.fr/encyclopedie/aides-a-creation-a-reprise-dentreprise/aides-a-linnovation/jei-jeune-entreprise
[2] https://www.bpifrance.fr/catalogue-offres/bourse-french-tech
[3] https://www.bpifrance.fr/catalogue-offres/bourse-french-tech-emergence
[6] https://www.bpifrance.fr/catalogue-offres/aide-au-developpement-deeptech
[7] https://bpifrance-creation.fr/encyclopedie/financements/lemprunt/pret-damorcage-bpifrance

TAX/FUNDING, CONT'D

Funding/Incentive Programs, CONT'D

Loans, CONT'D

- **R&D Innovation Loan ("Prêt innovation R&D")[8]:** This loan finances the industrial and commercial launch of an innovative project, both in France and abroad.
  - Funding: Up to €3 million for 5 to 8 years
  - Eligibility:
    - Innovative companies with fewer than 2000 employees
    - Covers: Product design, legal protection, manufacturing, and marketing expenses

Investment Programs

- **French Tech Seed Fund[9]:**
  - Funding: €50,000 to €500,000 in convertible notes (7% interest per year) for 5 years
  - Eligibility:
    - Startups incorporated within the last 3 years
    - Fewer than 50 employees
    - Having raised at least one equity round

Station F[12]

Station F is a "startups campus"; it offers a comprehensive ecosystem to support startups (Programs and Incubators, Networking Opportunities, Infrastructure and Resources, Events and Workshops). While Station F itself does not provide direct financial support, its programs often offer resources and connections to investors. For example, the EDHEC incubator provides access to a network of funders and experts.

WHAT ELSE?

Obligation of translation into French: Any person providing goods or services in France is required to use the French language for the designation, the offer or the presentation of its products and services.

Payment conditions: Pursuant to the French Commercial Code, the provisions dealing with payment conditions in the T&Cs must specify the conditions under which late interest is applied, the rate (at least three times the legal interest rate) and the minimum fixed fee of 40 euros to cover recovery costs.

Significant imbalance: Beyond consumer law, the concept of a "significant imbalance" is apprehended by commercial and civil law. Article L.442-1 of the French Commercial Code prohibits a party from subjecting the other party to obligations that create a significant imbalance in their rights and obligations, at any time during the commercial relationship. Nonetheless, recourse to Article L.442-1 is not common and has generally only been successful in cases where there is a major imbalance in power between the parties, such as is often the case between farmers and supermarket chains. In addition, Article 1171 of the French Civil Code provides that any non-negotiable term, determined in advance by one of the parties that creates a significant imbalance in the rights and obligations stated in the contract is deemed not written. This rule only applies to contracts of adhesion. Nonetheless, such a significant imbalance cannot concern the essential purpose of the contract and/or the adequacy of the price.

[8] https://www.bpifrance.fr/catalogue-offres/pret-innovation-rd-innovation-creative
[9] https://www.bpifrance.fr/catalogue-offres/oc-french-tech-seed
[12] https://stationf.co/

WHAT ELSE?, CONT'D

Hardship: Hardship (referred to as 'imprévision' in French) refers to the situation in which a contract becomes imbalanced due to a change in circumstances that was not foreseeable at the time of its conclusion. The party who suffers the imbalance can require the other party(ies) to renegotiate the contract. The parties must continue to perform their obligations during the renegotiation. In the event of refusal or failure of the renegotiation, the parties may agree to the termination of the contract, on the date and under the conditions that they determine, or they can both ask the judge to adapt the contract. If no agreement can be found, the judge may, at the request of a party, revise the contract or terminate it, on the date and under the conditions set by the judge. A contractual imbalance will not qualify as unforeseeable, if either party to the contract had agreed to assume the risk that caused the imbalance. In addition, it will not be sufficient to demonstrate that the execution of the contract has simply become difficult, it must be proven that execution of the contract has become excessively onerous.

Penalty and liability clauses: Parties are allowed to predefine a fixed amount as compensation in the event of non-performance or breach of contract, with courts having the ability to adjust these penalties if the clause is deemed manifestly excessive or derisory (penalty clause). Liability for contractual damages can be limited; however, such a limitation does not apply in the following cases: (i) the clause limiting liability deprives of its substance an essential obligation of a party to the contract, (ii) the clause limiting liability creates a significant imbalance between the rights and obligations of the parties to the contract, (iii) the non-performance by the debtor is the result of gross negligence or willful misconduct within the meaning of the case law of the French courts, and (iv) in certain specific contracts, such as consumer contracts, if the clause limiting liability reduces or eliminates the consumer's right to compensation. On July 3rd, 2024, the Commercial Chamber of the French Judicial Supreme Court handed down a landmark ruling on the enforceability of limitation of liability clauses against third parties to a contract (in this case, an insurance company), in which it considers that the limitation of liability clause agreed by the contracting parties is also enforceable against third parties; the contractual party was therefore held liable in tort to a third party based on a breach of contract. The scope of the holding to cases outside the insurance context remains to be determined.



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GERMANY

LEGAL FOUNDATIONS

Germany follows the **civil law system**. It thus relies on written statutes and other legal codes in the field of public, private and criminal law. The German civil law system is partly cast in a number of major Federal Codes (Civil Code, Commercial Code, Tax Code, Criminal Code, the Codes of Civil, Criminal and Administrative Procedures). Some of these are well over 100 years old, revised where necessary, but still providing a stable and deeply structured backbone. Other parts of our law are set forth in a large number of principal statutes regulating, again on a Federal, nationwide level, a large number of important private and commercial sectors (including, for example, the Law Against Unfair Competition, the Copyright, Patent and Trademark Acts, the Federal Building Act, the major corporate acts on the various legal forms to do business and many others). In addition, there is a large number of laws, regulations and ordinances on both a Federal and State level (Federal or State – depending on the constitutionally allocated jurisdictional competence), which provide fine tuning or specific rules in a given legal sector. Cultural affairs (including education, arts, media, broadcast), as well as some locally relevant issues (i.e. some construction and zoning aspects), are more or less a matter of State jurisdiction in the 16 German States (Land, pl. Länder), allocated to 16 State parliaments and governments. Last but not least, many daily business operations are governed by local municipal regulations (eg local trade license (Gewerbeanmeldung), Sunday and holiday business operation permits, etc.

In legal disputes, court decisions, such as of the German Federal Court of Justice, are often used as supporting arguments when it comes to interpreting the statutory provisions. They must be generally considered by lower courts. The legal structure is thus also further developed by case law.

GERMANY

CORPORATE STRUCTURES

German Law provides the following forms of companies:

Corporations (Kapitalgesellschaften)

The German limited liability company (**GmbH - Gesellschaft mit beschränkter Haftung**) is one of the most popular forms of companies in Germany. As to its requirements:

- It requires at least one shareholder (individual or legal entity) for its incorporation.
- Further, the shareholders have to draw up and sign the articles of association in form of a German notarial deed. As of 1 August 2022, under certain preconditions, An online formation of a German GmbH is possible, too. The company comes into existence with its registration in the German commercial register.
- The GmbH has a minimum statutory share capital of EUR 25,000. The shareholders have to pay in a minimum capital contribution of EUR 12,500. Contributions in kind are admissible but need to be effected in full.

ADVANTAGES

- Limited liability of the shareholders.
- Managing directors are bound to the instructions of the shareholders.

DISADVANTAGES

- Minimum share capital of EUR 25,000 (minimum capital contribution of EUR 12,500).
- The articles of association as well as any share transfer agreement have to be notarized.

The entrepreneurial company with limited liability (**Unternehmergesellschaft (haftungsbeschränkt**) or **UG (haftungsbeschränkt)**, is not an independent legal form, but a variation of the German GmbH having a minimum share capital of only EUR 1.00. The German legislator has introduced this so-called "small GmbH" in particular for founders of small commercial enterprises and start-ups, who wish to limit their liability and might be prevented from incorporating a German GmbH by its relatively high minimum share capital in the amount of EUR 25,000. However, it should be kept in mind that – in day-to-day business - the UG (haftungsbeschränkt) is often not as well regarded as a German GmbH due to its extremely limited liability.

In principle, the UG (haftungsbeschränkt) is subject to the same statutory provisions which are applicable to a "regular" German GmbH. The most important exceptions are, however, that:

- The UG (haftungsbeschränkt)'s share capital needs to be paid in full prior to the application for registration of the company in the commercial register.
- Contributions in kind are not allowed.
- 25% of the company's annual profit may not be distributed to the shareholders, but must be accumulated until there is sufficient equity of the UG (haftungsbeschränkt) to increase its share capital to EUR 25,000. At this point in time, the UG (haftungsbeschränkt) can become a "regular" GmbH.

Finally, there is the possibility to establish a German stock corporation (**AG - Aktiengesellschaft**) by one or more shareholders (individual or legal entity). The German AG has a share capital (Grundkapital) of at least EUR 50.000.00, of which at least EUR 12,500.00 need to be paid in by the shareholders. Furthermore, the AG requires the establishment of a supervisory board with at least three members. The articles of association need to be notarized and the company needs to be registered in the commercial register to come into legal existence. Due to the fact that the legal regulations for the German AG are much more formalistic than those for a German GmbH or UG (haftungsbeschränkt) and considering the relatively high initial investment, the AG is usually no attractive option for start-ups.

CORPORATE STRUCTURES, CONT'D

Partnerships (Personengesellschaften)

Apart from the GmbH, the most common forms of partnerships for businesses are the general commercial partnership (**OHG - Offene Handelsgesellschaft**) and the limited commercial partnership (**KG - Kommanditgesellschaft**). As to the requirements:

- In both cases, the establishment requires a partnership agreement between at least two partners (individuals or legal entities).
- No minimum capital is required.
- OHG and KG both need to be registered in the commercial register.
- Unlike the shareholders of a corporation, the partners are fully and personally liable with their personal assets.
- However, different from the OHG, in a KG there are two types of partners: (i) general partners, who have unlimited liability, and (ii) limited partners, who have only limited liability.
- In case of a so-called GmbH & Co. KG, i.e. a KG with a GmbH as general partner, even the liability of the general partner can be limited due to the fact that the GmbH's liability is limited to its share capital by law. The same applies for the UG (haftungsbeschränkt) & Co. KG.

ADVANTAGES

- No minimum capital
- No formal requirements for the establishment
- No obligation to disclose the articles of association

DISADVANTAGES

- Unlimited liability; this applies to all partners in an OHG and only to the general partners in a KG

Another form of a partnership is the civil law partnership **(GbR - Gesellschaft bürgerlichen Rechts)**. Its establishment requires at least 2 partners (individuals or legal entities) who promote the achievement of a common purpose in the manner stipulated by the partnership agreement, in particular, without limitation, by making the agreed contributions. The partnership agreement does not need to be notarized but should – for reasons of evidence – be in writing. There is no general registration obligation for the GbR. Since 1 January 2024, in certain cases, however, an entry in the new company register (Gesellschaftsregister) may become a de facto obligation as certain transactions / legal rights presuppose the registration of the GbR in order to prove its capacity to act (e.g. entries in the land register). Registration in the commercial register is neither required nor possible. The partners are fully and personally liable with their personal assets. Due to this personal liability of the partners, the GbR is usually not an attractive alternative for start-ups.

Sole Proprietorship (Einzelunternehmer)

The sole proprietorship is also a commonly used legal form in Germany. The owner of the business is a single natural person. The sole proprietorship comes into existence with the commencement of the sole proprietorship activity. In case that the sole proprietor is a merchant within the meaning of the German Commercial Code, the sole proprietor is obliged to have entered the business name and the place and domestic address of the commercial business in the commercial register. The sole proprietor is fully and personally liable with his or her private and business assets and thus, usually no attractive option for start-ups, either.

GERMANY

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Germany operates a foreign investment screening regime alongside sectoral licensing and capital markets rules. Germany's general (cross sector) review applies to acquisitions by non EU/EFTA investors of German companies or assets. On the legal basis of the German Foreign Trade and Payments Act and the German Foreign Trade and Payments Ordinance ("AWV"), the German Federal Ministry for Economic Affairs and Energy ("BMWE") may review the acquisition of German companies or assets by foreign buyers on a case-by-case basis. This covers share deals, certain asset deals, and follow on stake increases.

Any acquisition of a company by investors located outside the territory of the EU or the EFTA region may be subject to mandatory filing and standstill. The thresholds depend on the target's activity: 10% for the most sensitive categories (e.g., critical infrastructure), 20% for additional listed areas, and 25% for other targets. Follow on thresholds (e.g., 20/25/40/50/75%) can also trigger review. If the direct buyer is resident in the territory of the EU, such review may be performed if there are indications of an abusive approach or a circumvention transaction.

Separate, stricter rules apply to defense and certain IT security products. These apply to acquisitions by any "foreigner" and are triggered at a 10% threshold, with similar follow on thresholds. The test is whether the deal is likely to impair Germany's essential security interests. Similar special rules also apply to the acquisition of a company that operates a high-grade earth remote sensing system. Acquiring a "qualifying holding" in banks, insurers, and certain regulated firms a requires a prior suitability assessment/notification under sectoral laws (e.g., KWG §2c for banks) administered by BaFin and the Bundesbank. Non compliance can lead to prohibition of the acquisition and fines.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign which is suitable for distinguishing goods and/or services of an enterprise from those of another enterprise can be protected as trademarks. These signs can be, for example, words, letters, numbers, images, colors, holograms, multimedia signs and sounds.

Where to apply? Trademarks can be filed either with (i) the German Patent and Trademark Office (Deutsches Patent- und Markenamt - DPMA), (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application of a German trademark is very similar to the procedure before the EUIPO. The application can be filed via the online platform on https://direkt.dpma.de/marke or paper based. The DPMA reviews the application and registers the trademark if all minimum trademark requirements as mentioned above are met and whether there are absolute grounds for refusal. The DPMA does not examine whether earlier trademarks or rights to signs of third parties conflict with the registration. It is therefore recommended to carry out a legal clearance search with a qualified attorney before filing the application. A three months opposition period begins upon publication in the Trademark Gazette, within which third parties can oppose the trademark.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for a ten-years-period and can be prolongated for successive ten-years-periods subject to payment of renewal fees (currently EUR 750 for up to three classes, plus EUR 260 for each additional class at the DPMA).

Costs? Application costs for German trademarks for three classes amount EUR 290 if the application is filed online and EUR 300 for a paper-based application (EUR 100 are charged per additional classes). In addition, fees of the legal representative apply.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that the invention is novel, based on an inventive step (i.e. not obvious to a skilled professional) and can be applied in industry.

Where to apply? Patent protection will be granted only per country, meaning that the applicant must register the patent in each country where protection is sought. Since 1 June 2023, it is also possible to apply for a European Patent with unitary effect (Einheitspatent). Patent applications can be filed with either the DPMA, the European Patent Office (EPO) or the WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection is in any case a maximum of 20 years from application and must be maintained by annual fees (3rd - 20th year (increasing): EUR 70 – EUR 2,030).

Costs? Application costs for German patents for up to ten claims amount to up to EUR 510. In addition, fees of the legal and technical representatives apply.

Employee invention and inventor bonus? To employee inventions the German Employee Inventions Act applies, which is intended to create a balance between the interests of the employer and the employee who has invented something. According to the Employee Inventions Act, the employer has the right to claim a service invention, i.e. an invention that has arisen from the service activity or is significantly based on experience or work of the company. By claiming the service invention, the economic rights to the service invention are transferred to the employer. In return, the employer is obliged to compensate the employee appropriately and to apply for the grant of an industrial property right for the service invention without delay. This is accompanied by the employer's obligation to bear the costs associated with the granting procedure, as well as the costs of maintaining a patent application and a patent granted thereon. Special guidelines are available for calculating the employee's compensation.

Utility Model

What is protectable? Utility models are very similar to patents and can be registered for technical inventions. Protectable are (technical) inventions that are new, based on an inventive step and commercially applicable. The substantive requirements for protection, such as novelty and inventiveness, are not initially examined. They are only examined at a later stage in cancellation or infringement proceedings. Thus, the registration process for utility models is simpler, faster and cheaper than for patents. However, there is also a greater risk that they will be challenged and cancelled.

Where to apply? German utility models can be filed with the DPMA.

Duration of protection? In contrast to patents, the term of protection is only 10 years.

Costs? Application costs for German utility models for amounts to EUR 30 (electronic filing) or EUR 40 (paper-based filing). The utility model must be maintained by annual fees (4th - 10th year (increasing): EUR 210 – EUR 530). In addition, fees of the legal and technical representatives apply.

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? Industrial or craft product or parts of it can be protected as design, eg furniture, clothing, vehicles, fabrics, or graphic symbols. To be protectable the design must be new at the date of filing and it must have individual character. As not only physical but also digital designs are covered, protection may be claimed also for virtual designs in metaverses, apps, or other digital platforms.

Where to apply? National designs may be registered with the DPMA. To obtain protection throughout the EU, a Community Design may be registered with EUIPO. German applicants can also file for designs with the WIPO worldwide as Germany is party to the Hague System for registering international designs. No application for registration is required for an unregistered Community design. Protection is automatically conferred by way of disclosure, i.e. when the design is first published (exhibited, offered or otherwise published) within the European Union.

Duration of protection? The term of protection is five years and can be renewed five times. The maximum term of protection is therefore 25 years. Renewal fees start at EUR 90 in the 6th year and reach a maximum of EUR 180 for the last five-year period, ie the 21st to the 25th year of protection.

Costs? Application costs for German designs amount EUR 60 (electronic filing) or EUR 70 (paper-based filing) plus an additional fee for each additional design from the 11th design (EUR 6 for electronic filing or EUR 7 for paper-based filling). If the publication of the representation is deferred, there will be additional costs in the amount of at least EUR 30. In addition, fees of the legal representative apply.

The following IP rights cannot be registered:

Copyright

What is protectable? Protection under the German Copyright Act (Urheberrechtsgesetz – UrhG) is granted to expressions of the intellectual creation of an author (eg literary and artistic works, texts, photos, graphics, works of applied arts), to software and neighboring rights (ie protection of performances, recordings, and broadcasts rather than original authorship). Copyright protection arises upon creation of the work, provided that the conditions for protection are met. No registration and no label is required.

Duration of protection? Copyright protection ends 70 years after the author has passed away. The term of protection for neighboring rights depends on the right in question (mostly 50 to 70 years, 15 years for databases).

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work and the indispensable right to be named as author. The author may however grant third parties non-exclusive or exclusive rights to use the work.

Trade Secrets

What is protected? In Germany, trade secrets are protected under the German Act on the Protection of Trade Secrets (Geschäftsgeheimnisgesetz - GeschGehG). It provides companies with protection against espionage by competitors, i.e. against the unauthorized acquisition, use and disclosure of trade secrets. However, it also brings with it the compelling need to secure and protect trade secrets well (companies are required to take appropriate secrecy measures) so that a company can benefit from the legal protection. Full legal protection in cases of disclosure of secrets/theft of data – such as claims for damages, cease-and-desist claims, and claims to information – only applies when and if the owner has taken appropriate protection measures and has a justified interest in non-disclosure. A company must clearly and visibly document its intent to not disclose certain information.

The term "appropriate secrecy measures" includes, in particular, contractual protection mechanisms, such as declarations of commitment to secrecy protection, which can be agreed in individual contracts or under collective law (with employees) and may include suitable digital security measures, such as encryption.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

Since 25th May 2018 the GDPR has been in force. In Germany, the GDPR is supplemented by the Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG), the data protection laws of the federal states, and sector-specific regulations, e.g. in the area of electronic communication by the Telecommunications Digital Services Data Protection Act (Telekommunikation-Digitale-Dienste-Datenschutz-Gesetz - TDDDG). Some of the most relevant German specifics in the German data protection laws are the following:

- The BDSG contains specific rules on the processing and protection of the personal data of employees.
- The controller and the processor have to appoint a data protection officer if they generally employ at least 20 persons on a permanent basis for the automated processing of personal data.
- Some provisions of the GDPR do not apply to the processing of personal data for journalistic purposes by media owners.
- According to the Act against Unfair Competition (UWG) phone calls and electronic messages for advertising purposes require the data subject's prior consent (B2C and B2B). Consent for phone calls in a B2B context is not required in the event of a presumed consent on the part of the addressee. Consent for electronic messages is not required, if the controller has received the personal data in connection with a transaction, the marketing communication concerns similar products and services and the data subject has been given the opportunity to opt-out when data has been collected for this purpose as well as with every communication (soft-opt-in). If the above requirements are not met, there is also no overriding legitimate interest for the processing of the data for advertising purposes pursuant to Art. 6 para. 1 point (f) GDPR. Marketing by postal mail service can be based on overriding legitimate interests and does not require an opt-in.
- According to Sec. 25 TDDDG, which implements the European ePrivacy Directive, prior consent is required for storing information in the end-user's terminal equipment, or accessing information already stored in terminal equipment, unless it is absolutely necessary for the provision of the digital service. This requirement applies irrespective of whether personal data is processed or not. Thus, opt-in is required for all marketing, tracking and analytics cookies.

Due to the federal structure in Germany, supervision of companies and public bodies is generally carried out by the data protection supervisory authorities of the individual federal states. At the federal level, centralized supervision by the Federal Commissioner for Data Protection and Freedom of Information (Bundesbeauftragte für den Datenschutz und die Informationsfreiheit - BfDI) is limited to supervision of the public sector, private-sector companies in the telecommunications and postal sectors and private companies covered by the Security Clearance Check Act (Sicherheitsüberprüfungsgesetz - SÜG). The German data protection authorities and courts attach great importance to compliance with data protection rules and strictly enforce them.

GERMANY

ARTIFICIAL INTELLIGENCE

In Germany the EU AI Act applies. Germany does not yet have any specific national regulations for artificial intelligence. While the substantive requirements for AI systems follow directly from the regulation, member states are required to establish national supervisory and enforcement structures. The German federal government presented a government draft bill for a law on market surveillance and innovation promotion of artificial intelligence (AI-MIG) on February 11, 2026. According to the draft the Federal Network Agency (Bundesnetzagentur – BnetzA) is designated as the central market surveillance authority for compliance with the AI Regulation, unless special legal responsibilities apply. Existing supervisory structures will, however, remain in place in certain areas. Authorities that already act as market surveillance authorities under EU harmonization legislation will also assume this function for AI systems related to the respective products. In addition to market surveillance, the draft explicitly focuses on instruments that promote innovation. The Federal Network Agency is to be responsible in particular for the establishment and operation of a national AI real-world laboratory.

In general, the existing laws and their restrictions apply to AI. In addition, the first court rulings on individual questions regarding the interaction between AI and existing laws are emerging in Germany.

Copyright Law

Works created with the help of artificial intelligence may be protected by copyright in individual cases. Copyright protection applies when artificial intelligence is used as a tool for the creation of a new specific work. Copyright protection does not apply if the artificial intelligence takes over the entire creative process. In the case of a work created with the help of artificial intelligence, the question of authorship can pose a problem. Unlike in the USA, for example, there is no "work for hire"-principle and therefore no automatic attribution of such works to the company. The copyright holder can be either the developer or the user of the artificial intelligence. If the identity of the developer and the user of the AI programme is different, it must be determined which person provided the relevant "creative work". Companies should contractually determine the authorship in advance.

The training and use of generative artificial intelligence is regularly associated with the input and use of data. This can infringe the copyrights of third parties if the data contains copyrighted works of third parties. In the first German court decision related to content for use in AI training the District Court of Hamburg clarified in September 2024 first issues in connection with the copyright exceptions for text and data mining (TDM), which implement the EU Directive on Copyright in the Digital Single Market.Most recently, in a decision dated November 11, 2025, which is not yet legally binding, the Regional Court of Munich I ruled that both the memorization of song lyrics in language models and the reproduction of song lyrics in chatbot outputs infringes on copyright exploitation rights. The court ruled that these infringements were not covered by any limitations, in particular the limitation for text and data mining.

Patent Law

The German Federal Court of Justice ruled in a decision of June 2024, that artificial intelligence (AI) cannot be an ‘inventor’ in the sense of Section 37 (1) of the German Patent Act (Patentgesetz - PatG).

Data Protection Law

Generative artificial intelligence is subject to the General Data Protection Regulation (GDPR). In May 2024, the German data protection authorities have issued a joint first guidance on AI and data protection which is primarily directed to controllers who want to use AI applications and has since been supplemented by additional guidance.

EMPLOYEES/CONTRACTORS

General / Employment Contracts

German employment law consists of many different laws and is significantly interpreted and specified by case law. Examples of important laws in the field of labor law include (but are not limited to): the Federal Vacation Act (Bundesurlaubsgesetz), the Continued Remuneration Act (Entgeltfortzahlungsgesetz), and the Working Hours Act (Arbeitszeitgesetz).

Vacation Entitlements

The statutory minimum annual vacation is 24 "Werktage" (working days on a six day week), which equates to 20 days on a typical five day week. The full annual entitlement vests after a six month waiting period; before that, employees accrue one twelfth per full month. As a rule, vacation must be granted and taken in the current calendar year; transfer to the next year is only permitted if justified by pressing business or personal reasons, and then it must be taken in the first three months of the following year. If employment ends before vacation is taken, the unused balance must be paid out. There are special regulations governing the expiry of vacation entitlements for employees on long-term sick leave and the employer's duty to inform employees about their (remaining) vacation entitlements.

Sick Pay

If an employee is unable to work due to illness without fault, the employer must continue to pay regular remuneration for up to six weeks per illness episode. A renewed incapacity from the same illness can trigger a new six week period if either six months have elapsed without incapacity from that illness, or 12 months have passed since the start of the first incapacity. The continuation pay is based on the pay due for the employee's regular working time; overtime premia and pure expense allowances are excluded. The statutory right to continued pay arises after four weeks of uninterrupted employment.

Working Hours

German law caps daily working time at eight hours. It may extend to up to ten hours if, over six calendar months or 24 weeks, the average does not exceed eight hours per working day. Employers must also grant statutory rest breaks (at least 30 minutes if working more than six up to nine hours; 45 minutes if more than nine) and a daily rest period of at least eleven consecutive hours. Sunday and public holiday work is generally prohibited, with limited sectoral exceptions and mandatory compensatory rest; at least 15 Sundays per year must be non working. Employers face administrative fines for violations.

Conclusion of an Employment Contract

Statutory law requires only, that employment contracts with temporary workers and those parts of employment contracts relating to limited terms (excluding time limits on reaching the statutory retirement age since 1 January 2025) and post-termination covenants not to compete be in writing. The written form requires the exchange of one or more hard copies with original handwritten (wet-ink) signatures of the employer and the employee on the same hard copy.

With effect as of 1 January 2025 the German Act on Proof of the Existence of an Employment Relationship (Nachweisgesetz – NachwG), which applies since 1 August 2022, was modified through the Bureaucracy Relief Act IV. Employers can now also provide mandatory information about the essential terms of their employment contracts in text form (e.g. by email). Written proof of working conditions is only required if employees expressly request it. However, this does not apply to economic sectors that are particularly at risk from undeclared work and illegal employment, such as construction and gastronomy. Here, the written form remains in place.

With the changes to the law taking effect, time limits up to the statutory retirement age can now also be agreed in text form.

According to the NachwG employees who start on or after 1 August 2022 essentially have to be provided with the necessary documentation on day one of their employment regarding certain material terms and conditions of the employment relationship (such as compensation and working hours). Existing employees with a start date prior to 1 August 2022 have to be provided with the documentation only upon request. However, the employer has to respond within seven days after receiving the request.

EMPLOYEES/CONTRACTORS, CONT'D

Conclusion of an Employment Contract, CONT'D

The NachwG provides a regulatory fine of up to EUR 2,000 per violation and employee. Violations can include that documentation is either not provided at all, not provided on time, not provided in full or not provided in the prescribed manner.

In principle, employment contracts are also subject to a review of the general terms and conditions, considering the peculiarities of labor law (Section 310 (4) of the German Civil Code (Bürgerliches Gesetzbuch - BGB)). Even if foreign law is chosen, employment contracts are subject to mandatory law, which includes the review of the general terms and conditions.

Minimum wage

On 1 January 2026, the minimum wage was raised from EUR 12.82 to EUR 13.90 per hour. As of 1 January 2027, the minimum wage will increase to EUR 14.60. Furthermore, the earnings threshold for so-called mini-jobs raised to EUR 603.00 (instead of the previous EUR 556.00) on 1 January 2026.

Limited-term employment contracts

According to the Part-Time and Limited-Term Employment Act (Teilzeit- und Be-fristungsgesetz) limited-term employment contracts are permitted if the limitation in time is justified by reasonable cause. Reasonable cause exists in particular (without limitation) if the operational need for work is only temporary, if an employee replaces another employee (e.g. in cases of illness, maternity and parental leave) or if the limitation is for a probationary period. There is no specific maximum duration for such limited-term contracts; however, the longer the duration, the more difficult it usually is to establish reasonable cause. The successive use of limited-term employment contracts over many years may amount to an abuse of rights, rendering the limitation unenforceable.

Reasonable cause is not required for limited-term employment:

- of new employees and employees whose last employment with the employer ended a very long time ago, was of an entirely different nature or was very short (such contract may be – according to current legislation (the legislator is planning restrictions here) – extended up to three times, subject to an overall maximum term of two years);
- **Note:** at newly established businesses, unless they are established in connection with a reorganization of existing businesses, within four years of establishment (such contract may be extended multiple times, subject to an overall maximum term of four years); and
- of employees who have reached the age of 52 and have been unemployed for at least four months (such contract may be extended multiple times, subject to an overall maximum term of five years).

Specific statutes govern limited-term employment of scientific and artistic university staff and medical practitioners in further education.

Factors that Distinguish an Independent Contractor/Freelancer from an Employee

German law makes a very strict distinction between employees and self-employed persons / freelancers. The decisive factor is in particular how the contractual relationship is lived and less which regulations are contained in the contract itself. An employee is defined as someone who, based on a contract under private law, is obliged to work according to instructions and heteronomous in someone else's service and personal dependence. The degree of personal dependence required may vary by the nature of the work to be performed. Contrary to an independent contractor, who is essentially free to determine how to organize their work and when and where to work, an employee is integrated into the employer's operational organization and subject to the employer's instructions regarding the contents, performance, time and place of work. In determining whether someone is an employee, all circumstances of the individual case must be taken into account. The wording of the contract is disregarded where its practical implementation shows an employment relationship. Independent contractors who are economically dependent on the employer and, comparable to employees, in need of social protection are regarded as employee-like persons to whom some employment statutes apply.

EMPLOYEES/CONTRACTORS, CONT'D

Factors that Distinguish an Independent Contractor/Freelancer from an Employee, CONT'D

In case of uncertainty regarding the employment status, the status determination procedure in social insurance pursuant to Section 7a of the Fourth Book of the German Social Security Code (SGB IV) enables the parties involved in an employment relationship to obtain clarity about their employment status at an early stage. With this procedure, the parties involved in a contractual relationship can have a legally binding determination made as to whether an insurable employments status exists or not.

The shown distinction between an employee and a self-employed person is important, as it has implications for taxation, vacation entitlements, pension contribution payments, insurance issues, intellectual property and protection against dismissal.

Especially in the rapidly growing branch of the gig economy (labor market characterized by the prevalence of short-term contracts or freelance work as opposed to permanent jobs, e.g. Uber, Uber Eats, Lieferando), businesses need to know their responsibilities depending on what type of worker they employ to avoid legal complications.

Recently, some companies within the gig economy (e.g. Uber in the UK) have been claiming their staff were self-employed, when in fact, they were workers in the law and therefore entitled to workers' rights.

The German Federal Labour Court has dealt with this question in a controversial judgement in December 2020. For platform operators, this means that the limits set out in this ruling must be strictly observed.

No Work Made for Hire Regime

There is no work made for hire regime in Germany. By creating a personal intellectual creation, the employee becomes the author of the work created in the process. This formal legal status as an author cannot be disputed by anyone, not even the employee's employer, as copyright as such is not transferable in Germany. However, an author may grant another person rights of use to the copyrighted works created. If the work was created by an author in fulfilment of his or her obligations under an employment or service relationship, then the employer is generally entitled to the exclusive usage and exploitation rights. Since the line is often blurred, it is advisable to include detailed and comprehensive clauses on copyright in employment contracts.

Dismissals

The termination of an employment relationship by notice of the employer is governed by the German Protection Against Unfair Dismissal Act (Kündigungsschutzgesetz - KSchG). It requires specific grounds to justify a termination notice if the terminated employee has been employed for at least six consecutive months. The Act is applicable to businesses employing more than ten (in some situations five) employees. Part-time employees do not participate in the headcount. Instead, they are included by hours worked, i.e. up to 20 part-time hours = 0.5 employees, up to 30 hours = 0.75 employees. When calculating the size of the company, temporary agency workers working in the company must be included if their use is based on a "generally" existing demand for manpower.

Termination notices must be given in writing, with the legal original signature of the employer or his authorized representative. If a works council exists, a termination notice is legally invalid if the works council has not been informed and heard prior to the termination notice. The basic statutory notice period is four weeks, terminating the employment at the fifteenth or the last day of a calendar month. Notice periods apply equally to notices of the employer and the employee. The length of the notice period to be observed by the employer increases with the duration of the employment, up to a maximum of seven months. If an extended notice period applies, the termination notice is effective only at the end of the relevant month at the end of the notice period. Collective bargaining agreements (Tarifverträge) and individual employment contracts often provide for notice periods that are longer than those prescribed by statute. Shorter periods may be agreed in certain exceptional cases. There is no right to pay in lieu of applying the applicable notice period. Unless agreed otherwise, the employee has not only the duty but also the right to work until the notice period has elapsed. If the employee objects to the dismissal, they must file a complaint with the labor court within three weeks from receipt of notice of termination or else the employee will no longer be entitled to contest the notice in court.

EMPLOYEES/CONTRACTORS, CONT'D

Ordinary Dismissal

An employer's ordinary dismissal is subject to certain validity conditions if the German Protection Against Unfair Dismissal Act applies as described above.

Dismissals are only legally justified if they are based on reasons that relate to any of the following:

- the employee's individual circumstances (e.g. a long-term illness);
- the employee's conduct;
- economic, technical or operational (ETO) grounds that rule out the possibility for the employee continuing to work in the business.

However, apart from such general protection, there are numerous other provisions that grant special protection against dismissal to specific groups of employees (e.g. pregnant employees; employees on parental leave; severely disabled employees and equivalent persons; works council members and other employee representative bodies).

Dismissal Without Prior Notice

An extraordinary dismissal without prior notice (termination for good cause) terminates the employment with immediate effect, Section 626 of the German Civil Code (Bürgerliches Gesetzbuch - BGB). An extraordinary dismissal requires a severe breach of duties and therefore circumstances which, taking the entire situation of the individual case into account and weighing the interests of both parties, render it unreasonable for the employer to continue the employment relationship until the notice period has elapsed.

CONSUMER PROTECTION

In Germany, consumer protection is guaranteed by a comprehensive set of rules consisting of national laws and the implementation of European directives. The most important legal bases can be summarized as follows:

Civil Code (Bürgerliches Gesetzbuch - BGB)

The BGB forms the core of German consumer protection law. It contains numerous provisions that protect consumers in their legal relationships with businesses. Of particular relevance are Sections 312 et seq. BGB, which regulate special forms of distribution, in particular contracts concluded outside of business premises and distance contracts (e.g., online purchases). In these cases, consumers are generally entitled to a 14-day right of withdrawal. In addition, Sections 474 et seq. BGB regulate the purchase of consumer goods and grant consumers a statutory warranty period of two years. Sections 305 et seq. BGB also protect consumers from unreasonable general terms and conditions (AGB), cf. question 9.

Unfair Competition Act (Gesetz gegen den unlauteren Wettbewerb - UWG)

The UWG protects consumers from misleading and aggressive advertising, deception, and unfair business practices. Among other things, it prohibits misleading information about goods or services, unreasonable harassment (e.g., unwanted advertising calls), and aggressive business practices.

Product Liability Act (Produkthaftungsgesetz - ProdHaftG)

The ProdHaftG establishes strict liability on the part of the manufacturer for damage caused by defective products. Consumers can assert claims for damages without having to prove fault on the part of the manufacturer.

Product Safety Act (Produktsicherheitsgesetz - ProdSG)

The ProdSG ensures that only safe products are allowed to be placed on the market. It regulates the safety requirements for consumer products and gives the authorities the power to remove unsafe products from the market.

CONSUMER PROTECTION, CONT'D

Price Indication Regulation (Preisangabenverordnung - PAngV)

The PAngV requires businesses to clearly indicate final prices, including all taxes and duties, so that consumers can easily compare prices. This also includes regulations on basic price information.

Consumer Dispute Resolution Act (Verbraucherstreitbeilegungsgesetz - VSBG)

The VSBG creates the framework for out-of-court dispute resolution procedures between consumers and businesses. It establishes consumer arbitration bodies that offer a cost-effective and quick alternative to court proceedings.

Other Relevant Regulations

In addition to these key laws, there are other regulations relevant to consumer protection, including the Telemedia Act (Telemediengesetz - TMG) and the Digital Services Act (Digitale Dienste Gesetz - DDG) with information requirements for online providers, the GDPR for the protection of personal data, consumer credit law (Sections 491 et seq. BGB) with special protection provisions for loan agreements, and the Injunctive Relief Act (Unterlassungsklagengesetz - UKlaG), which gives consumer protection associations the opportunity to enforce injunctive relief claims in court.

TERMS OF SERVICE

Terms of services, which are usually qualified as general terms and conditions, become enforceable only, if consumers have explicitly agreed to these terms (preferably via a tick-box) and had the possibility to read, print and store them upfront. In addition, the respective clauses must be in compliance with stringent consumer protection laws. According to Sec 305 et seq. German Civil Code, particularly the following clauses in terms and conditions are held to be invalid:

- Implied renewal of the contract if specific conditions are not met;
- Limitations of warranty rights;
- Exclusion of liability rights for death, bodily injuries, gross negligence, willful misconduct, claims under the product liability laws, damages occurred by violations of contractual core obligations;
- One-sided rights of companies to change scope of services or prices;
- Severability clauses;
- Any other intransparent or grossly disadvantageous clause.

In addition, pursuant to Sec 312 et seq. German Civil Code, certain information and documentation obligations vis-à-vis consumers exist.

However, some of the above-mentioned restrictions do not only apply to contracts with consumers. In legal transactions between entrepreneurs, terms of service must also effectively be included in the contract, to be valid. Furthermore, some of the legal restrictions regarding the admissible content of general terms and conditions, apply to contracts with entrepreneurs, too. Thus, for example, the exclusion of liability rights for death, bodily injuries, gross negligence, willful misconduct, claims under the product liability laws, damages occurred by violations of contractual core obligations in general terms and conditions, is also inadmissible in business transactions with entrepreneurs.

If standard terms of service in whole or in part have not become part of the contract or are ineffective, the remainder of the contract remains in effect, in principle. To the extent that the standard terms of service have not become part of the contract or are ineffective, the contents of the contract are determined by the German statutory provisions.

TAX/FUNDING

Tax

German startups are typically organized as corporations which are subject to two types of income taxes: corporation tax and trade tax. Corporation tax is levied at a uniform rate of 15% and is then subject to a surcharge of 5.5% (solidarity surcharge). The trade tax rate is a combination of a uniform tax rate of 3.5% (base rate) and a municipal tax rate depending on where the business is located resulting in a tax rate ranging between approx. 8% and 20%. Trade tax is levied in addition to corporation tax resulting in a total tax rate in the range of approx. 24% to 36%.

A German-resident corporation is subject to German income taxation on its worldwide income, subject to an applicable tax treaty which is important to identify to limit a potential double taxation. A German-resident corporation generally is not subject to German tax on the income of its foreign subsidiaries (subject to certain anti-avoidance regulations).

A non-resident corporation doing business in Germany will generally be subject to German income taxation with any German source income. This includes, for example, dividends from German corporations, which may be subject to withholding taxes. However, tax treaties can often reduce or eliminate German taxes. To optimize tax liabilities, investors may use holding companies in a favorable tax jurisdiction. A thorough analysis of the applicable tax treaties is often necessary to minimize double taxation and optimize withholding taxes.

Germany has quite strict transfer pricing regulations which may impact cross-border transactions between entities. Proper documentation and adherence to German transfer pricing rules are critical to avoid tax penalties.

Incentive programs in Germany are available through several different public funding instruments and for different funding purposes. Germany does generally not offer tax incentives though, except in limited circumstances, e.g. in the form of a R&D allowance which is available under certain conditions and within certain limits.

However, in order to strengthen the German start-up ecosystem, only recently at the beginning of 2024 Germany introduced for the first time the possibility of free or discounted real-equity grants to employees of start-ups under favorable tax conditions. So far, a significant barrier existed for real-equity grants for start-up companies in Germany, known as the dry-income issue, which arose from the traditional tax treatment of employee shares. Under these rules, a taxable benefit in kind was immediately triggered if an employee acquired free shares of charge or shares at a discounted price resulting in detrimental tax consequences, in particular employees being faced with an upfront cash tax burden. This forced start-up employers to resort to less tax-attractive incentive plans like stock option or virtual (i.e. cash-based) share plans. However, real equity grant programs have become much more attractive for employees since the implementation of the new regime making it easier for German start-ups to attract international talents.

Funding

In Germany, there are a variety of funding and tax incentive programs which might be available to an individual startup (or, depending on the program, also to other businesses).

A general database operated by the German Federal Ministry for Economic Affairs and Energy (BMWE) with funding programs of the European Union, the Federal Republic of Germany and the 16 states (Bundesländer) of Germany can be accessed at https://www.foerderdatenbank.de. More information is available here: https://www.make-it-in-germany.com/en/working-in-germany/setting-up-business/preparation-consultation/financing-funding.

The individual programs will each have their specific criteria in order to be applicable, which need to be checked in the individual case. In addition, certain programs cannot be combined with other programs, which should be taken into account.

TAX/FUNDING

Funding, CONT'D

A common program, attractive for startups engaging in research and development (R&D) activities, is the research tax allowance (steuerliche Forschungszulage). Under the Research Allowance Act (Forschungszulagengesetz - FZulG), companies can (also retroactively) receive substantial tax breaks if they invest in research and development – regardless of whether the company is currently making a profit or a loss. In short, up to 35% (for small and medium-sized enterprises – SMEs) of gross wages of employees directly involved in R&D projects, 70% of expenses for contracted research and depreciation of movable fixed assets essential to the R&D activities may be subsidised with a maximal annual funding of up to EUR 4.2 million (35% of a maximum of EUR 12m of eligible expenses) and the subsidy is tax-free.

Business Angels frequently rely on the INVEST– Venture capital grant program, administered by the German Federal Office for Economic Affairs and Export Control (BAFA), which aims to stimulate venture capital investments in young, innovative companies. Provided it applies, it offers private investors (natural persons residing in the European Economic Area or investors investing through German limited liability companies) a 15% tax-free reimbursement on investments up to EUR 666,666.66 in aggregate and EUR 333,333.33 per individual investment (i.e., up to EUR 100,000 and EUR 50,000 respectively), reducing the inherent risks associated with equity financing. Inter alia, eligible companies must be less than seven years old, employ fewer than 50 FTEs, and demonstrate innovation within their sector. Additionally, investors directly investing as natural persons who realize profits upon exiting their investment after a minimum holding period of three years can under certain further conditions receive a lump-sum tax refund of up to 25% on the capital gains (which may almost cover such German tax).

Selected funding programs: The specific funding requirements are set out in the respective funding regulations	
Program	**Description**
EXIST-Forschungstransfer	The EXIST Transfer of Research program supports research teams at German universities and research institutions in transitioning high-risk, innovative research projects into market-ready products and services. It provides financial assistance in two phases: the first focuses on development and business planning, while the second aids newly founded technology companies in further development and market entry.
EXIST-Gründungs-stipendium	The EXIST Business Start-up Grant is designed for students, graduates, and scientists from universities and research institutions, as a personal scholarship offering financial support to develop innovative, technology-oriented business ideas into viable business plans. The funding includes personal living expenses, resources for materials, and coaching services over a period of up to one year.

EXIST-Women	Aiming to increase the number of female entrepreneurs, it provides women at universities with opportunities to explore entrepreneurship and develop business ideas. Participants receive support through workshops, networking events, and, if needed, financial assistance to prepare for launching their own businesses.
INVEST – Zuschuss für Wagniskapital	The INVEST – Venture capital grant program encourages private investments in young, innovative companies (see respective paragraph above).
ERP-Gründerkredit – StartGeld	A loan program designed to support startups and small businesses in Germany, providing up to EUR 125200,000 for financing operating resources and investments.
NRW.SeedCap	A co-investment fund by NRW.BANK that matches private investments in early-stage startups based in North Rhine-Westphalia. The program aims to strengthen the capital base of young companies by doubling the amount invested by private investors, up to a specified limit.
NRW.BANK. Gründung und Wachstum	This financing program offers loans to startups and growing enterprises in North Rhine-Westphalia, supporting investments and working capital needs. It provides favourable conditions to facilitate business establishment, expansion and job creation in the region.
Berlin Start (Investitionsbank Berlin)	This program, a joint initiative by Investitionsbank Berlin (IBB) and Bürgschaftsbank Berlin, offers low-interest loans of up to EUR 500,0001.5 million to startups and young companies in Berlin, facilitating business establishment and growth. It is designed for supporting projects in their initial fiveseven years through a combination of financing and guarantees.
Hamburg-Kredit Gründung und Nachfolge	Loans of up to EUR 1 million under this program are available to founders and startups that have been operating for no more than five years. The program is a cooperation between the Hamburgische Investitions- und Förderbank (IFB) and the Bürgschaftsbank Hamburg GmbH and provides financing for operating resources and investments.
push! Hessen	This startup scholarship from the state of Hesse provides selected early-stage startups with a one-time grant of up to EUR 40,000 (over a full year).
Forschungszulage	The research tax allowance is a tax incentive program that allows companies engaged in research and development activities to claim a certain tax credit (see respective paragraph above).

WHAT ELSE?

Registrations/Permits Depending on the specific business, registrations or specific permits may be necessary. The founding of a commercial operation (Gewerbebetrieb) has to be registered with the local trade office (Gewerbeamt). Some businesses require a government permit. Certain professions require admission to respective professional organizations. Freelancers have to register with the tax office (Finanzamt).

Businesses that maintain a place of business in a chamber district and are subject to trade tax belong by law to the local Chamber of Industry and Commerce (Industrie- und Handelskammer - IHK). The rule covers natural persons, partnerships, and private/public legal entities; there are exemptions (e.g., for purely liberal professions not entered in the commercial register, for certain agricultural entities, and for municipalities). For a range of regulated professions, chamber membership is mandatory upon admission/appointment (eg lawyers, tax advisors).

Strict jurisdiction: German courts are rather strict as it comes to the protection of employees, consumers and data subjects. For businesses, the risk of non-compliance in these fields of law is rather high. It is thus recommendable to focus on these topics first, when rolling out a business in Germany.



GHANA

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GHANA

LEGAL FOUNDATIONS

Ghana's legal system was developed on the foundations of the common law system and these foundations remain to date. The sources of law in Ghana comprise the Constitution, enactments made by or under the authority of the Parliament of Ghana, orders, rules or regulations made by any person or authority under a power conferred by the Constitution, the existing law and the common law.

Ghana has two categories of courts: the superior and lower courts. The superior courts and the lower courts are established by the Constitution and an Act of Parliament respectively. The superior courts are made up of the Supreme Court, Court of Appeal, the High Court and Regional Tribunals whilst the lower courts are made up of the Circuit Courts, District Courts, Juvenile Courts and Tribunals amongst others. The Supreme Courts has exclusive original jurisdiction in all matters concerning enforcement and the interpretation of the Constitution, it also serves as the highest appellate court of Ghana with supervisory jurisdiction over all other courts in Ghana. The Court of Appeal has appellate jurisdiction over decisions from the high and circuit courts on civil matters and appeals from decisions of various administrative bodies. The Court of Appeal does not have original jurisdiction in any matter.

The High Courts have original jurisdiction in all civil and criminal matters unless provided otherwise by the Constitution. It also has appellate jurisdiction in criminal cases and it exercises supervisory jurisdiction over all lower courts and adjudicatory bodies. The High Court has exclusive jurisdiction to determine, hear or enforce matters bordering on fundamental human rights and freedoms.

Laws in Ghana are made by the Parliament of Ghana, which is the legislative arm of government and derives its powers from the Constitution of Ghana.

The courts in Ghana follow the doctrine of stare decisis ensuring consistency and predictability in the application of the law. In its application, judgments from the Supreme Court are binding on the Court of Appeal, High Court, Circuit Court and District Courts. Conversely, a decision from the Court of Appeal is binding on the lower courts unless it conflicts with a Supreme Court decision.

The Supreme Court may, while treating its own previous decisions as normally binding may depart from a previous decision when it appears to it right to do so, and all other courts shall be bound by the decisions of the Supreme Court on questions of law.

The Circuit Court has jurisdiction in civil matters where the claim does not exceed GHS 2,000,000 (about $166,000). The Circuit Court also has criminal jurisdiction (excluding matters of treason, indictable offences and offences punishable by death).

The District Courts exercise jurisdiction over matters occurring in a specific geographical area. They also exercise jurisdiction in civil matters where the claim does not exceed GHS 500,000 (about USD 41,666).

GHANA

CORPORATE STRUCTURES

The incorporation and regulation of matters affecting businesses in Ghana is primarily regulated by the Companies Act, 2019 (Act 992) which allows one or more persons to incorporate a company. In addition to the Companies Act, where the prospective business operates in a specific industry which has its own statute such as Banking, Insurance, Oil and Gas, Financial Technology, Electronic transactions inter alia the specific licensing and regulatory requirements affecting the business, shall also be applicable.

The Companies Act requires that there shall be at least two (2) directors for the incorporation of a company in Ghana and one of the directors should be ordinarily resident in Ghana.

The Companies Act also allows companies to either create their own constitution/regulations or adopt the standard form of company constitution in the Companies Act. To register a business in Ghana, the promoter (s) working alone or jointly with the first directors and shareholders (members) shall ensure the submission of the relevant application forms to the Registrar of Companies and after all conditions precedent to incorporation have been met, a certificate of incorporation shall be issued to the company.

The business forms available to startups in Ghana are:

- Incorporated companies limited by shares
- companies limited by guarantee
- an unlimited company and or
- an external company.

Incorporated Companies limited by Shares

Companies limited by shares have the liability of members limited to the amount unpaid on the shares they hold. A company may be classified according to the number of members, liability of its members and ownership structure. The types of companies identified under the Companies Act are:

A Private Company is one where there are restrictions on the rights to transfer shares, its total number of members and debenture holders are limited to fifty (50) (subject to stated exceptions), it is prohibited from making an invitation to the public to acquire shares or debentures of the company; and also prohibited from making an invitation to the public to deposit money for fixed periods or payable at call, whether bearing or not bearing interest.

A Public Company is a company which is not a private company and has more than fifty (50) members and or debenture holders and is permitted to make invitations to the public for shares and also allowed to make invitations to the public to deposit monies for fixed period or sums payable at call.

A Company Limited by Guarantee

A company limited by guarantee is one which is not incorporated with the object of carrying on business for profit other than profits required for the furtherance of its objects. This is typically recommended for social enterprises and businesses not motivated by profit. The total liability of members of a company limited by guarantee is limited to the amount such a member has guaranteed he will contribute in the event the company is being wound up.

Membership of a company limited by guarantee is valid until the member dies, retires or is excluded from membership.

An Unlimited Company

This refers to a company which does not have a limit on the liability of its members. It may either be a private company unlimited by shares or a public company unlimited by shares.

External Company

An external company is a body corporate formed outside the Republic of Ghana and which has an established place of business in Ghana.

GHANA

ENTERING THE COUNTRY

The Ghana Investment Promotion Act, 2013 (Act 865) is the primary legislation regulating foreign direct investments into Ghana. The Act provides for the creation and operation of the Ghana Investment Promotion Centre (the Centre) as the agency of government responsible for the facilitation and promotion of investments into Ghana, to provide for the creation of an attractive incentive framework and a predictable environment for investments.

Pursuant to this law, a foreign person who intends to establish an enterprise in Ghana is required to first incorporate or register the enterprise in accordance with the Companies Act and other relevant laws such as the Ghana Investment Promotion Act. The requirement for registration is applicable to an enterprise in which foreign participation is permitted and the registration shall be done with the Centre after its incorporation or registration but before commencement of its operations.

The time required for registration shall not exceed five (5) working days from the date of receipt of all the required documentation for registration, receipt of evidence of minimum capital requirements and payment of the prescribed fees. An enterprise in which foreign participation is permitted under this Act shall renew its registration with the Centre every two (2) years. Benefits and Incentives available to businesses registering at the Centre include tax holidays and exemption on import duties on plant, equipment or parts of the plant or machinery.

Persons who are not Ghanaian citizens are not allowed to enter into the following sectors:

Sale of goods in a market, the operation of a taxi service with fleet less than 25 vehicles, operations of beauty salons, production of basic stationery, retail of finished pharmaceutical products, production and retail of water, better services and any services that the government may from time to time include.

Categories of Investments and Required Minimum Capital Requirement.

- For a joint enterprise with a partner who is a citizen, capital of not less than two hundred thousand United States Dollars ($200,000) in cash or capital goods relevant to the investment or a combination of both by way of equity participation and the partner who is a citizen shall not have less than ten percent (10%) equity participation in the joint enterprise; or
- where the enterprise is wholly owned by foreign person, a minimum investment of foreign capital of not less than five hundred thousand United States Dollars ($500,000) in cash or capital goods relevant to the investment or a combination of both by way of equity capital in the enterprise.
- Foreign nationals are permitted to carry out trading (purchasing and selling of imported goods and services) provided a minimum investment of one million United States Dollars ($ 1million) is made in cash or goods and services relevant to the investments.

The minimum capital requirements are not applicable to enterprises set up solely for export trading (export of goods or produce that originate in Ghana), manufacturing and Agribusiness.

Protections under Ghana's investment laws include: prohibitions against discrimination against foreign investors, guarantees against expropriation, guarantees for the transfer of capital, profits, dividends and personal remittances (subject to the relevant provisions of the Foreign Exchange Act 2006 (Act 723) and respect for dispute resolution procedures which conform to international standards or within the framework of any bilateral or multilateral agreement already in place between Ghana and the investor's country of origin.

Favourable labour conditions include the opportunity for enterprises registered with the Centre to employ persons of any nationality to support their operations and the availability of expatriate employment quotas based on compliance with specified capital requirements.

Investment related disputes are resolved by deference to the dispute resolution mechanisms stated in agreements between contracting parties, or where there is none, Ghana's Alternative Dispute Resolution Act (Act 798) may be used by the parties for resolution.

GHANA

INTELLECTUAL PROPERTY

Intellectual Property rights are registered with the Office of the Registrar of Companies and the Ghana Intellectual Property Office.

Ghana has specific statutes for protecting rights relating to Patents, Copyrights, Trade Marks and Industrial Designs.

Copyright

The Copyright Act grants protection for original works including but not limited to books, artistic works, musical works, audio-visual work, choreographic work, derivative work, computer software and mobile applications. The scope of protection relates to the exclusive rights endowed on the owner to reproduce, distribute, distribute or grant authorisation to other persons for the use of his work.

Economic rights in copyrights are transferable. However, the moral rights are not transferable. The copyrights may be transferred by assignment, testamentary disposition or the operation of law. Economic rights are available for the life of the author and seventy years after his death. Where copyrights are owned by a corporate body, its duration is seventy (70) years and moral rights are available in perpetuity regardless of whether the economic rights are vested in the author (or their successor).

Trademarks

The scope of trademark protection covers unique and recognisable marks, symbols or expressions relating to goods and services which act as unique identifiers of that product or service. Once registered, the mark protection is available for ten (10) years and it is renewable at the end of the ten-year period.

Trade mark protections are not available for trade names, names which are contrary to public policy and morality, marks which may mislead the public or the trade partners, marks which carry identical names to another mark already on the register and marks which are incapable of distinguishing another mark.

Patents

Patents cover new and innovative materials for use in industry. Scope of protection does not include discoveries, scientific theories, mathematical methods, rules or methods of doing business.

Protection for a patent is granted to the inventor for a product. However, a third party may submit an application if they can justify their interest or right to the patent. Registered patents are valid for twenty (20) years from the date of filing the application.

Trade Secrets

Trade Secrets are regulated by the Protection Against Unfair Competition Act, 2000 (Act 589) which describes Secret Information to include the following:

- Information which has commercial value because it is secret
- Information which the owner has taken reasonable steps to protect
- Information which is not known or readily accessible to persons who normally deal with that kind of information

Ghana is and has been part of the Madrid System since 2008.

DATA PROTECTION/PRIVACY

The Constitution of Ghana guarantees the right to privacy which includes the protection of the privacy of individuals and their properties. The Data Protection Act, 2012 (Act 843) provides a framework for the protection of the personal data of citizens and this provides guidelines for the collection, processing, storage and disposal of personal data. Personal Data under Ghanaian law is described as data about an individual who can be identified from the data or other information in the possession of the data controller.

General data protection guidelines in Ghana:

- Personal data has to be processed within the requirements of the law (without infringing personal liberties and in a reasonable manner).
- Where data collected from other jurisdictions is processed in Ghana, provisions are made for foreign data controllers to ensure compliance with laws of the jurisdiction from which the data was collected.
- Personal data should only be processed if it is necessary and relevant for the purpose it was collected for.
- The requirement for consent, justification and provisions for objection: Data processing generally requires consent unless processing is required for legal or contractual obligations or for protecting the data subject's interest. Data subjects have the right to object to processing.
- Source of personal data: The personal data of any individual should be collected directly from the data subject, with exceptions for public records or when consent or other lawful basis apply. Data subjects must be informed about the purpose of data collection and processing should not infringe any privacy laws.
- Retention of records: Collected personal data should not be retained longer than necessary for the collection purpose unless required by law or with consent. Specific conditions apply for historical, statistical or research data.
- Further processing of data must be compatible with the original purpose of collection unless specific conditions like consent or legal obligations are met.

Data subjects are entitled to know if a controller holds their data, what data is held, and who has access to the data. A data subject is also entitled to request corrections, deletions or rectification of data collected, detailed rights to access one's personal data, including the purpose of processing and recipients of the data. Data subjects are entitled to compensation if the individual suffers any damage or distress on account of breach by a data controller.

Data controllers must implement appropriate technical and organizational measures to protect data from unauthorized access, loss, damage, or destruction. Data controllers have obligations under the law to notify the relevant regulators and the data subject in case of a data breach, unless it might impede criminal investigations.

Activities exempt from the processing of personal data

Data processed in the interest of national security, for criminal, taxation and health matters. Data processed in the interest of research activity, journalism, literature and art and data processed in relation to regulatory activity where such is necessary for the public interest.

Data arising from professional privileges, the army or confidential references for employment and data processed for personal or household activities. Data disclosed for legal proceedings is exempt from processing as well.

GHANA

ARTIFICIAL INTELLIGENCE

Presently, Ghana does not have a specific legislation related to AI regulation. Policy makers led by the Ministry of Communications are currently engaging stakeholders for the development of a national AI strategy policy document. This policy is designed to ensure AI adoption in Ghana aligns with national interests, focusing on ethical use across various sectors.

The government of Ghana and its agents have indicated adequate interest in the adoption and regulation of AI by submitting and participating in international and regional initiatives such as UNESCO's Readiness Assessment Measurement (RAM) for ethical AI use. This initiative involves assessing Ghana's preparedness to implement AI technologies ethically and responsibly.

Ghana's approach to AI regulation will also be influenced by broader regional strategies from the Africa Union (AU) and ECOWAS. The AU's Continental Artificial Intelligence Strategy, approved in July 2024, aims to guide member states including Ghana towards the development of an Africa-centric, ethical and inclusive AI regulation regime.

Even though, Ghana does not have a defined regulatory regime for AI, its existing laws such as the Data Protection Act, the Cybersecurity Act, the Copyright Act, the Electronic Transactions Act and the National Information Technology Agency Act have adequate safeguards to deal with varied issues relevant to AI particularly data management, infrastructure, ethics and user protection.

Ghana has developed a draft law – the Emerging Technologies Bill, 2025 which is expected to deal with matters relating to new technologies such as research, ethics, rights and obligation in areas such as robotics, AI, Blockchain. The bill is currently going through the parlimentary review and approval process

EMPLOYEES/CONTRACTORS

General: The employer-employee relationship in Ghana is regulated by the Labour Act,2003 (Act 651) and any subsidiary legislation arising from it. The Labour Act does not specifically define an employee however it defines a worker as a person employed under a contract of employment whether on a continuous, part time, temporary or casual basis. Employment agreements can be oral or written and they will be enforceable. However, it is recommended that all the terms of engagement between an employer and employee are set down in writing. Every employee in Ghana, in order to promote or protect his/her economic and social interest has the right to form or join a trade union of his/her choice.

Prohibitions Against Forced Labour: The constitution of Ghana and the Labour Act expressly prohibit the holding of persons in servitude, slavery or any semblance of forced labour.

Under Ghanaian law, forced labour does not include labour resulting from an order of a court or a punitive sentence, labour required of a member of the security forces, labour which is performed as part of communal or civic obligations and labour required of citizens during a time of emergency, war or natural disasters.

EMPLOYEES/CONTRACTORS

Termination: The Labour Act provides that a contract of employment may be terminated at any time by either party subject to the requirement to provide notice or in the absence of a notice, a payment in lieu of the notice.

A contract of employment may be terminated by the employer, the employee or by mutual agreement between the parties at any time provided the requirements for notice and payments in lieu of notice are complied with.

Where an employer has a basis to terminate the employment of an employee, the process has to be fair. For termination to be fair, it should follow the due processes including obligations to prove the incompetence or the misconduct of the worker, misconduct against the worker, or that such termination was done under a redundancy program (following specified rules).

An employee is however entitled to all accrued remunerations earned before termination of the employment relationship. An employee during the time of notice is expected to continue performing his obligations till the end of the contract.

Work Made in the Course Employment: While the Labour Act is silent on economic rights relating to work produced by an employee, the Copy Right Act, 2005 (Act 690) makes it clear, work produced by an employee belongs to the employer. However, it allows for a contract between the employer and employee to vary the distribution or ownership of economic rights.

Source Deductions: There are two (2) groups of deductions from employee's emoluments under Ghanaian law namely: prohibited and permitted deductions.

Prohibited deductions relate to discounts, interest, penalty or any amount which is a charge for the repayment of an advance to an employee.

Permitted deductions relate to deductions made with the express consent of the employee, deductions imposed by law (such as social security and income tax payments) and deductions for advances from the employer (or from third party financial institutions which are guaranteed by the employer) to the employee.

Contractors: Startups in Ghana are permitted to engage contractors in the course of their work. Corporate contractors will typically have a contract with the startup which will define all the commercial terms. Contracts with individual employees for a period of six (6) months or more have to be in writing with clearly defined terms of employment specifying the rights and obligations of the parties.

The Labour Act permits temporary employment for periods of not less than one (1) month for works which are seasonal in nature. Where an employee engages in seasonal work and is paid on a daily basis, the employee is considered a Casual Worker. A temporary employee employed by the same employer for more than six(6) months or an aggregate of six (6) months in a year with the same employer shall be considered a permanent worker.

Generally, where a dispute arises out of whether a person is an employee or an independent contractor, the common law tests, Labour Act and the conduct of the parties will be used to ascertain the presence or absence of an employer-employee.

GHANA

CONSUMER PROTECTION

Ghana does not have a standalone consumer protection law. However, there is a framework in place through the Consumer Protection Policy which aims to establish legal and institutional mechanisms for protecting consumer rights. Additionally, there are ongoing discussions for the formulation of a national competition policy and the enactment of a competition law to protect consumers.

Even though we do not have a competition law or consumer protection statute, there are various protections for consumers in specified industries. For example, there are consumer protection guidelines set out by various regulatory and state bodies such as the Data Protection Commission, the National Communications Authority, the Ministry of Communications, the National Pension Regulatory Authority, the Bank of Ghana and the Securities and Exchange Commission.

Key Highlights of the Consumer Protection Policy:

- The creation of a comprehensive legal, institutional, and social infrastructure that enhances consumer welfare, health, safety, and economic interests.
- Consumer Rights Empowerment: It emphasizes empowering consumers to assert their rights effectively in the marketplace, ensuring they are informed and able to make choices.
- Areas of Focus include physical safety of goods, fair trading practices, promotion of ethical business practices, quality standards, redress mechanisms, advertising regulations and consumer education.
- Protecting Vulnerable Groups: The policy includes specific provisions to protect vulnerable and disadvantaged consumers, ensuring inclusivity in consumer rights.
- Sector-Specific Guidelines: It addresses special subject areas such as food safety, pharmaceuticals, consumer credit contracts and electronic commerce, reflecting the diverse needs of consumers in different sectors.

TERMS OF SERVICE

The Payment Services Act, 2019 (Act 987) requires all industry players to enter into a written agreement with the user of a payment service or the holder of an electronic account.

The minimum contents of such agreements to make them enforceable include:
clear details of the user of the payment service or account holder, adequate and clear description of the electronic product or services offered, fees and charges, redress mechanisms and contact information of the service provider.

Other matters relevant to a Terms of Service in Ghana include:

- Compliance with data processing laws of Ghana, transparency and a well-defined dispute resolution mechanism.
- Provisions against unauthorised disclosures of the details of clients or account holders.
- The requirement to obtain the consent of the user for all additional services
- Prohibitions against inappropriate content or unfair terms that excessively limit consumer rights or contradict mandatory provisions of Ghanaian laws. The terms must exclude deceptive or misleading clauses that could render the terms unenforceable.
- Clearly defined provisions to delineate consumer Rights protections including rights and obligations of the parties relating to cancellation/opt-out policies and refund procedures.

GHANA

TAX/FUNDING

Taxation

In Ghana, startups in technology businesses enjoy significant tax incentives to support the growth of the enterprise. First, startups operating in the technology industry enjoy tax holidays of up to five (5) years from commencement, where the startups are subjected to a reduced Corporate tax rate of 1% instead of the standard rate of 25% during the five year period. They are also entitled to special location incentives when they site businesses away from major towns. Lastly, startups in the technology industry enjoy up to five (5) years of unrelieved losses.

To qualify for these incentives, a prospective business should be owned by principals who are less than thirty-five (35) years of age and operating in priority sectors of the economy including the Information and Communication Technology sector.

Funding

The commercial banking industry in Ghana does not provide funding to startups. However, there are two categories of non-bank funding available to startups in Ghana namely: private equity and state sponsored finance programs supporting startups.

Private equity financing in Ghana is primarily driven by privately owned businesses offering support to startups regardless of the nationality of the principals. The activities of these venture capital and private equity funds are coordinated by the Ghana Venture Capital Association (GVCA).

State sponsored finance schemes for startups are available only to Ghanaian owned startups. For example, the Government of Ghana through the Ghana Enterprises Agency and The National Entrepreneurship & Innovation Programme (NEIP), and its partners provide technical and financial assistance to Start-ups, Micro, Small and Medium Enterprises (MSMEs) in Ghana.

WHAT ELSE?

Any foreign entity entering into a business transactions relating to the underlisted with the government of Ghana is required to obtain the approval of the Parliament of Ghana.

- Agreements where the government is required to guarantee repayment or performance of obligations of any person.
- Agreements relating to international business or economic transactions to which the government is a party.
- Agreements which will provide for tax exemptions, variations ore deferment.
- Loan agreements to which the government is a party.

A foreign arbitral award is also recognised and enforceable in Ghana in the same manner as a judgement or order of a High Court in Ghana. The condition precedent for the enforceability of a foreign arbitrable award include:

- The award made by an authorized body under the laws of the country where the award was made,
- the country from which the award was made should have a reciprocal agreement with Ghana,
- the award should have been made under a relevant convention ratified by the parliament of Ghana; there is no appeal in the country where arbitral award was made and
- the enforcing party has in his possession original or certified copies of the award and the underlying agreement for which the award was made.



GREECE

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GREECE

LEGAL FOUNDATIONS

Greece follows the **Civil Law System**. The system relies on its core, on the written legal codes governing the fields of public, private, and criminal law respectively. The legal codes are updated at regular intervals. The core legal codes are complemented by a complex system of statutes and legal acts, governing and regulating more specific legal issues and sectors of law. Such legal statutes and acts are updated constantly. European Regulations, which are directly applicable in all member states, constitute the third and final part of the Greek legislative ecosystem. The main jurisdictional layers, in terms of subject matter, are the following:

- Greek **public law** governs the relationship between individuals and the Greek state and is enforced by administrative bodies and administrative courts (i.e. public procurement contracts, fines imposed by public bodies/authorities, disputes against public authorities). In most cases, decisions are initially made by internal instruments/departments of the competent public body. Such decisions may then be disputed in the administrative courts. Greek administrative courts consist of three jurisdictional layers: i. administrative courts of first instance, ii. administrative courts of appeal, iii. The Council of State (Supreme Administrative Court). The core legal codes, governing Greek Public Law, are the "Administrative Code" and the "Code of Administrative Procedure".

- **Private law** governs relationships between individuals, regardless of their nature. Thus, private law covers numerous cases and sectors of law, from family law to commercial and corporate disputes (i.e. employment disputes, contractual liability disputes, land disputes etc.). Greek Civil Courts consist of four jurisdictional layers: i. Small claims court, ii. Civil Courts of First Instance, iii. Civil Courts of Appeal, iv. The Supreme Court. The main legal codes, constituting the backbone of private law, are the "Greek Civil Code" and the "Greek Civil Procedure Code". The main legal codes are then supplemented by hundreds of other laws governing specific fields or issues. (i.e. employment laws, Corporate Laws, e-commerce laws etc.).

- **Criminal law** is mainly codified in the "Greek Criminal Code" and the "Greek Code of Criminal Procedure". Some sectoral laws may also include criminal provisions or penalties for specific actions (i.e. data protection law, Intellectual Property Law, Competition Law). Greek Criminal Courts consist of four jurisdictional layers: i. Magistrate Courts, ii. Criminal Courts of First Instance, iii. Criminal Courts of Appeal, iv. The Supreme Court.

Even though the Greek Civil Law System relies on written legal statutes, codes, and acts, Greek Courts are competent to interpret the meaning and application of such statutes, codes, and acts. As such, case law of the Greek Courts also plays a vital role in developing the Greek legal system.

GREECE

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Companies and Enterprises in Greece fall under three main categories: i. Individual Enterprises (Sole Traders/Freelance Professionals), ii. Personal Companies, and iii. Capital Companies.

For most start-up businesses and business models, the capital companies are the most appealing and relevant category since they generally provide limitation of the shareholders' liability and several ways for corporate capital to be raised by or invested in the start-up. The three most relevant capital company/corporate types for start-ups, looking to start their business in Greece, are the following:

Company Limited by Shares - Société Anonyme (S.A. /A.E.)

It is a capital company with legal personality, which is responsible for its debts with its own assets. The company's capital is divided into shares. A company limited by shares is a commercial company, even if its purpose is not the exercise of a commercial activity. Shareholders own shares of the company which are either registered or bearer shares. Shareholders are not personally liable, and their liability is limited to the amount of their investment.

Main features & Facts:

- Minimum capital of 25.000€ required for establishment.
- Contributions of the members can be in cash and in kind. However, in kind contributions are exclusively limited to assets which can be objectively valued. As such, provision of labour, services, or expertise may not be legally contributed against capital.
- The S.A. is the only corporate structure, under Greek Law, which may potentially be listed in the stock exchange.
- Increased administrative costs due to complex corporate structures and strict tax compliance requirements.
- Increased transparency obligations.
- Increased credibility with creditors and other stakeholders, due to the increased applicable transparency obligations.

Limited Liability Company (Ltd / E.P.E.)

A Limited Liability company is a commercial company by law, even if its Articles of Association do not state that it does pursue commercial objectives and irrespective of the business purpose actually pursued by its directors and partners. A limited liability company is liable for its debts with its own assets. The personal liability of the partners cannot be engaged and liability is limited to the amounts contributed by each partner in return for portions of participation.

Main Features & Facts:

- No minimum capital requirement.
- Contributions of the shareholders can be in cash and in kind. However, in kind contributions are exclusively limited to assets which can be objectively valued. As such, provision of labour, services, or expertise may not be legally contributed against capital.
- Specific form/notarial requirements apply to specific corporate actions, such as the transfer of capital portions.
- Dual majority requirements (majority in absolute number of partners and majority in terms of capital percentage) apply for decisions of the General Assembly to be valid.

Private Capital Company (PCC / I.K.E.)

The newest and most flexible corporate structure. IKE is a private capital company which has capital and the liability of its members for the company debts, except for members who participate in the company with guarantee contributions, is limited.

CORPORATE STRUCTURES, CONT'D

Private Capital Company (PCC / I.K.E.), CONT'D

Main Features & Facts:

- No minimum capital requirement.
- Contributions of the members can be in cash, in kind, and in guarantee.
- The only corporate structure allowing in kind contributions related to labour, services, or expertise. For that reason, it is really popular amongst start-ups with business models based around tech development or IP.
- Lower administrative and tax compliance costs.

All of the abovementioned corporate structures may be established by a sole owner/shareholder.
All of the abovementioned corporate structures must be registered in the Greek Business Registry (GEMH) and comply with, varying degrees of, transparency obligations.

Foreign start-ups, may also explore the possibility of beginning their business activities in Greece by establishing a Greek branch of their main company. Branches do not possess a separate legal personality. However, they may acquire a Greek tax number and legally conduct business in Greece. In some cases, establishing a branch may be a way for start-ups, established in other countries and following specific business models, to test the business environment in Greece before fully committing to the Greek market.

ENTERING THE COUNTRY

Foreign Investment Restrictions: In general, Greek law welcomes foreign investments, however restrictions are in place in specific market sectors and industries which are considered strategic for the country's national interests. Due to the recent publication of Law 5202/2025, Greece has established a national FDI (Foreign Direct Investment) screening mechanism that applies to investments in Greek entities or assets that may affect certain sensitive or highly sensitive sectors. The Law imposes certain investment thresholds that if crossed in an ownership share by a foreign investor, are automatically subject to screening by the Authorities. Specifically, FDI screening applies when an investor reaches 25% ownership in a target operating in key strategic sectors (energy, transport, health, ICT, digital infrastructure), and also when ownership later increases to 30%, 40%, 50%, or 75%. Additionally, it applies from 10% ownership share if the target enterprise operates in highly sensitive sectors, including defence/national security, cybersecurity, AI, as well as port, critical subsea, and border-area tourism infrastructure. Screening is also triggered again when ownership later increases to 20%, 25%, 30%, 40%, 50%, 60%, 70% or 75%.

Restrictions Related to Working Visas and Residence Permits: Some pre-seed or seed funding-stage startups may face restrictions, related to visa or residence permit requirements, when establishing themselves within Greece. More specifically, although foreign company owners/shareholders are not subject to any visa requirements, for a non-EU/third-country resident to directly manage a company established in Greece, s/he must possess a working visa. From March 31, 2024 onwards a new and more strict "Immigration Code" regulating restrictions related to working visas and residence permits is applicable in Greece.

In a nutshell, a residence permit may be granted to a foreign citizen if he plans to establish a company with corporate seat in Greece in order to conduct investments amounting at least 500.000 euros. In case the investment is performed by a foreign legal entity, a residence license may be granted up to three citizens, which may either be members of the Board of Directors or shareholders of the foreign entity with at least 33% of the share capital or its managers or legal representatives.

In addition, third-country residents which are either shareholders of at least 33% of a Greek company's share capital by having paid in cash at least 500.000 euros or are shareholders of a Greek company with shares traded in regulated markets and the nominal value of their shares amounts at least 500.000 euros, may apply for a residence permit.

Third-country citizens which are BoD members, legal representatives, managers of Greek companies as well as legal representatives of foreign companies' branches that conduct lawfully commercial business in Greece and have a turnover of at least 4 million, may also apply for a permit.

It is clear, that if a startup's BoD members or Administrators are EU citizens, the barriers of entry to the country for the company are much lower.

GREECE

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign, including sounds, and product shape or packaging, provided that it is able to distinguish between products and services of different companies/businesses and that may be represented in a form which allows the public to understand the object of the trademark protection.

Where to apply? Trademark applications are filed with either: i. the Greek Industrial Property Organization (OBI- Οργανισμός Βιομηχανικής Ιδιοκτησίας), ii. the European Union Intellectual Property Office (EUIPO), or iii. the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought (Greece, EU, Other Countries of the Madrid System). The application for a Greek Trademark may be filed online via the Greek Industrial Property Organization (http://www.obi.gr/en/). The procedure is similar to the one followed for the granting of EU Trademarks before EUIPO. The trademark application is reviewed by an OBI reviewer and, if the application includes all the required information and no absolute grounds for refusal apply, the trademark is published on the website of the Greek Ministry of Development and Investments. A three month-long opposition period, during which third parties may oppose the trademark, follows the abovementioned publication of the trademark.

Duration of protection? Registered trademarks are valid for 10 years from the date of registration. The protection may be renewed for further 10-year periods for a fee.

Costs? Application fees for Greek trademarks, for one class, begin from 100€ for electronic applications and from 120€ for hardcopy applications. Additional fees apply for the protection of additional classes of products/services. The abovementioned fees correspond to the administrative fees collectible by OBI and do not include attorney legal representation/consulting fees.

Patents

What is protectable? Inventions which are novel, inventive/not obvious, and are suitable for industrial application.

Where to apply? Greek Patent applications can be filed with the Greek Industrial Property Organization (OBI).

Duration of protection? The term of protection is, in any case, a maximum of 20 years from application and must be maintained by annual fees, following the second year of protection.

Costs? Application fees for Greek patents range between 500€ and 667€. The abovementioned fees correspond to the administrative fees collectible by OBI and do not include attorney and technical consultant legal representation/consulting fees.

Utility Model

What is protectable? Any three dimensional object of specific shape, such as a tool, device, utensil or component/accessory, which is novel, suitable for industrial application, and able to solve a specific technical issue.

Where to apply? Utility model applications can be filed with the Greek Industrial Property Organization (OBI).

Duration of protection? The term of protection is in any case a maximum of 7 years from application and must be maintained by annual fees, following the second year of protection.

Costs? Application fees for Greek utility models amount to 150€. The abovementioned fees correspond to the administrative fees collectible by OBI and do not include attorney legal representation/consulting fees.

ITELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? The external, complete or partial, image of a product, which derives from specific and distinctive characteristics such as the outline, the colour, the shape, the format, and the materials of the product and/or its decoration.

Where to apply? National designs may be registered with the Greek Industrial Property Organization (OBI).

Duration of protection? Registered designs are valid for 5 years from the date of registration. The protection may be renewed for further 5-year periods for a fee. The maximum term of protection is 25 years.

Costs? Application fees begin from 130€. The abovementioned fees correspond to the administrative fees collectible by OBI and do not include attorney legal representation/consulting fees.

The following IP rights cannot be registered:

Copyrights

What is protectable? Original literary, artistic, or scientific works of any form are protected by copyright. Software, source code, and specific novel type of databases may also be protected. Copyright protection is automatically granted upon the creation of the work. However, since no registration is required and the extent of the protection is usually decided in Court during disputes, the copyright owner should take measures to prove his ownership and the date of creation of the protected work. The Greek Intellectual Property Organization (IPO) provides a tool for right owners to register their work for the purpose of proving their ownership and date of creation. The creator of a work possesses, as a rule, both the right to be recognized as the creator of the copyrighted material (moral right) and the right to financially exploit the copyrighted work (financial right). Even if the financial right is transferred or licenced, the moral right remains with the original creator.

Duration of protection? Copyright protection ends 70 years after the creator of the work has passed away.

Trade Secrets

What is protectable? Trade secrets are explicitly protected under Greek Law. Trade secrets refer to any business information, method, or technology which has commercial value derived from it secrecy. For business information to be considered trade secrets and be protectable, the following requirements must be fulfilled: 1. The information must be secret and not widely known, 2. The information should have commercial value due to its secret nature, 3. The owner of the information must have used reasonable efforts and put in place reasonable measures to keep the information secret.

Duration of protection? Trade secrets protection can last as long as the information actually remains a secret.

How to keep trade secrets secret? In most cases, companies will have to implement a system of internal policies, procedures, technical measures, NDAs, and contractual clauses -extending both to internal (i.e. employees) and external stakeholders- to ensure that all reasonable measures to keep the information secret are in place and -where possible- to specify the estimated value of the trade secret for the company.

DATA PROTECTION/PRIVACY

GDPR applies directly in Greece since the 25th of May 2018. Greek Law does not provide for extensive or extreme particularities and derogations. Thus, data controllers and processors in Greece have to comply with all the principles, provisions, and obligations of the GDPR.

However, both: i. Law 4624/2019, which sets out implementation measures on the GDPR's opening clauses and integrates EU Directive 2016/680 into Greek law; ii. Law 3471/2006, which integrates EU Directive 2002/58/EC into Greek law, sets out rules for the protection of the confidentiality of communications and cookies/trackers, and regulates data protection in the telecommunications sector, and iii. Several other laws regulating specific sectoral data protection/privacy issues, include national derogations and legal particularities which apply to specific scenarios.

Additionally, while they constitute guidance instruments and do not directly have legally binding effects, the opinions and instructions of the Hellenic Data Protection Authority (HDPA) provide invaluable insight on how the legal framework is enforced in specific situations and in-depth rules for specific processing activities are often, de facto, set out through them.

Some of the most notable specificities of data protection legislation in Greece are the following:

- In-depth instructions and rules for the legal use of CCTV systems in different scenarios are introduced through an instruction of the HDPA. Additionally, the law provides that CCTV systems may be used in the workplace exclusively for purposes related to the protection of people and property.
- Specific rules apply to data processing in the context of remote working. Carrying out a DPIA for such purposes is compulsory for employers.
- Under Greek law, the processing of personal data in the workplace falls within the scope of the data protection rules, even when the processed data is not a part of, or intended to form a part of, a filing system. In such cases, Greek law is stricter than EU law, since it even extends to oral communications.
- The age for legal child consent in relation to personal data processing in information society services in Greece is 15 years.
- A prohibition is in place for the processing of genetic data for life and health insurance purposes.
- A no-call list is in place for phone call marketing and promotions.
- Cookies and similar technologies may only be used with the users' explicit consent. Cookies which are strictly necessary for the proper and safe functioning of the website may be used without consent.
- Explicit consent is required for marketing communications through e-mail, SMS, and/or messaging applications. Consent is not required if a previous business/client relationship exists between the controller and the recipient of the communication. An opt-out option must be included in any such marketing messages.
- The HDPA expects Controllers to use only one legal basis for each processing purpose. This means that – contrary to what may apply in other EU countries – a controller may not legally use more than one legal basis (ie, both execution of an agreement and legitimate interest) for the same processing purpose.
- Sectoral or case specific rules may apply in areas such as:
    - Banking
    - Stock Exchanges and brokers
    - Insurance
    - Legal Services
    - Occupational Doctors
    - Digital Governance

The Hellenic Data Protection Authority (HDPA) is understaffed but follows a strict approach to the protection of the rights and freedoms of data subjects. Heightened enforcement action on the part of the HDPA and an increase in the number of the number of civil data protection lawsuits filed by individuals can be noticed in Greece with each passing year. The HDPA has issued several decisions based around the mishandling of data subject requests, lack of transparency, and non-compliance with the obligation of data protection by design.

ARTIFICIAL INTELLIGENCE

The EU AI Act is fully applicable in Greece, according to its implementation timetable. Greece has not up to date (February 2026) designated its AI Act competent Market Surveillance Authorities and/or Notifying Authorities. However, in November 2024, Greece announced the list of Greek authorities/bodies, protecting fundamental rights, which were identified and notified to the Commission as per Art.77 of the AI Act. The list includes:

1. The Hellenic Data Protection Authority
2. The Greek Ombudsman
3. The Hellenic Authority for Communication Security and Privacy (ADAE)
4. The National Commission for Human Rights

However, Greece had already introduced national legislation governing the use of AI by Public Bodies, Employers, and Medium or Large Enterprises. The provisions of the legislation are fully applicable in Greece since the 1st of January 2023. These Obligations are still in force today, but some of them might be amended or revoked through the National Implementing legislation of the AI Act in Greece, which is expected to be published within the first half of 2026.

Obligations Concerning Public Bodies

The law defines the framework within which public bodies may legally use AI technologies. According to some of the key provisions on that subject:

- Public bodies may, when exercising their powers/competencies, legally use an AI system which either entails automated decision-making or contributes to a, human-run, decision-making process, only if the use of the AI system is expressly provided for in a specific legal provision. The abovementioned specific legal provision shall also contain all the safeguards necessary to protect the rights of natural and legal persons which may be affected by the decision-making process.
- An obligation to carry out an **Algorithmic Impact Assessment (AIA)** is introduced for any public body, which wishes to use the abovementioned AI systems. The AIA must be carried out before the system is used, and it should include, at a minimum, a description of the capabilities and intended use/purpose of the system, as well as the type of decisions which the system will be making. The purpose of the assessment is to weigh the benefits of the system against the potential risks to the rights and legitimate interests of the natural and legal persons affected by the use of the system.
- A number of obligations are created relating to: i. the establishment and maintenance of a Register of algorithmic decision making systems of the public body concerned, ii. the compliance with the principle of transparency in the use of AI systems and the provision, by the public body to the general public and the potentially affected businesses, of information relating to the existence and modus operandi of AI systems, and the methodology of decision making executed by them. Compliance with these obligations is monitored by the National Transparency Authority (NTA).
- Finally, the Law introduces a set of minimum contractual obligations to be undertaken, vis-à-vis the concerned Contracting Authorities, by prospective contractors of public contracts/tenders relating to the development or design of AI systems. Startups who integrate AI into their products and wish to work with the Public Sector, shall take these provisions and contractual obligations into account during the development of their business model and products.

Obligations Concerning Employers and Medium or Large Enterprises

Employers, both in the public and private sector, who use AI systems which may influence decision-making about an employee or prospective employee must:

- Provide detailed information to the employee/prospective employee on the parameters that determine the decision.
- Ensure that the use of AI does not adversely affect the principle of equal treatment and the prohibition of discrimination in the workplace.

The violation of the above obligations is reviewed and enforced by the Labour Inspectorate and violators are subject to the sanctions of Greek Employment Legislation.

ARTIFICIAL INTELLIGENCE, CONT'D

Obligations Concerning Employers and Medium or Large Enterprises, CONT'D

Additional obligations are introduced for companies that constitute Medium or Large Enterprises. In particular, such companies are now required to:

- Keep an electronic register of the AI systems used in the context of consumer profiling or employee/co-worker evaluation. The register should include comprehensive information on the operational parameters, purposes, and prevention/protection measures of each system.
- Establish and maintain an **ethical data use policy**, which describes the measures and procedures to be applied during the use of AI systems **(AI Ethics)**. S.As, which are already required to draft a corporate governance statement in accordance with the Greek Law regulating the function of S.As, must include their data ethics policy in the corporate governance statement.

It shall be noted that all the obligations regarding the use of AI, introduced by the new Law, are treated as independent legal obligations and thus, in cases where an AI system is used -inter alia- for the processing of personal data, they do not overlap or affect the application of the legal framework for the protection of personal data (GDPR, Law 4624/2019, etc.)

EMPLOYEES/CONTRACTORS

General

- An employment agreement must be in place between employers and employees. In general, mandatory law provides for the limits of what can be agreed within the employment agreement and what is a mandatory right of the employee or obligation of the employer. Labour Law in Greece has traditionally been strict and protective of employees. After the recent (2021) amendment in Greek Employment Law, employment agreements may, in some cases, provide for more flexible working regimes, following an ad-hoc negotiation with the employee.
- Collective agreements or works agreements are recognized and encouraged by Greek Labour Law. Many sectoral collective agreements are already in place.
- A number of specific labour laws provide for additional obligations for employers who employee a big number of employees. For example, the obligation to hire an occupational doctor and a safety officer, as well as the obligation to establish whistleblowing channels are applicable to employers with more than 50 employees.

Work for Hire Regime

- Patents: Greek patent law provides that patents created by employees belong, by default, exclusively to the employee. However, if the employee used resources and information of his/her employer to develop the patent, the employer is entitled to 40% of the patent and possesses priority licensing rights to the patent, provided that he renumerates the employee accordingly. If the employment agreement exclusively mentions that the employee is employed with the purpose of developing the patent, the patent belongs exclusively to the employer. However, the employee is entitled to additional proportional renumeration when the patent is exceptionally profitable for the employer.
- Copyright: Greek copyright law provides that that copyright ownership of a work created by an employee in the course of their employment belongs by default to the employee. If the employment agreement provides that such works belong to the employer, the employer automatically gains ownership of the part of the property rights which is deemed necessary for the purposes of the agreement; the moral right always remains with the employee.

Employee Tax Deduction and Social Security

Every employer must deduct and remit income tax installments to the Greek Tax Authorities on behalf of their employees. Employers are also obligated to pay part of their employee's social security fees.

Remote Working

Special rules, such as the obligation of the employer to cover equipment and other remote working costs, the obligation to establish a remote working policy, as well as transparency and employment agreement-related obligations, apply when an employer uses remote working regimes (either fully remote or hybrid).

EMPLOYEES/CONTRACTORS, CONT'D

Termination

- Mutual termination of the employment agreement may be agreed between the parties.
- The employer may unilaterally terminate the employment agreement for "just cause". The bar for an employer to establish just cause, under Greek Law, is very high. All employees generally have a right of notice and of payment in the event of termination, unless they are terminated for "just cause".
- Employees may terminate the contract unilaterally. It is common practice for a prior notice obligation to be included, for the employee, within the employment agreement.

Contractors

Companies may also engage independent contractors to perform services. The distinction between an employee and a contractor is a question of fact, and is not determined by what the parties agree to call themselves. Factors taken into account in this determination will generally include control over the time, place and manner in which services are performed, ownership over tools and equipment, ability to subcontract/hire assistants, existence of additional employers/clients on the side of the contractor etc. Where the courts decide that a contractor is not independent, s/he possesses the same labour law rights as any other employee.

When engaging independent contractors, it is crucial for a comprehensive agreement, reflecting the actual agreement of the parties and governing all risk, intellectual property, commercial, and competition issues to be established between the parties.

CONSUMER PROTECTION

The Greek Consumer Protection Act (Law 2251/1994 as amended) is the centerpiece of Greek Consumer Protection Legislation. This legislation is complimented by a number of Civil Code Provisions, and sector specific laws or laws ruling specific business practices, such as the Presidential Degree for the provision of e-commerce services.

In general, Greek Consumer Protection Legislation is strict and provides specific rights to the consumers through mandatory law provisions, which cannot not be overturned or ignored through the use of contractual or terms of service provisions. Under Greek Law, the definition of a consumer exclusively includes natural persons not operating under their business or professional capacity.

Some of the main practices and issues which are explicitly regulated within Greek Consumer Protection legislation, are the following:

- **Transparency/Information Provision Obligations:** Sellers of products or services are required to provide consumers with information relating to the provided product/service and the consumer rights that are granted to them by law. The level and content of the provided information varies depending on the medium through which the sale is concluded (in-store sales, e-commerce sales, door to door sales etc.).
- **Extensive Obligations Relating to Online Sales:** A comprehensive set of consumer protection obligations are in place for companies selling their products online. Such obligations may include transparency obligations, the provision of a right to withdraw, active for 14 days following the sale of a product, to consumers in distance selling contracts, and due diligence and information provision obligations for the providers of online marketplaces.
- **Warranty rules:** A 2-year seller warranty is provided directly by law. Product manufacturers or sellers may offer commercial warranty on top of that.
- **Product Safety, Consumer Health, and Child Protection Provisions:** A number of obligations relating to the protection of the safety and health of consumers of products are in place. Children protection rules also apply and a general ban on the sale of products which may create risks for the mental, psychological or moral development of underaged consumers is in place; products , targeted to children, which may incite violence and/or racism, and products which promote or contribute to addiction of any kind -such as gambling or drugs- fall within this category.
- **Advertisement and Commercial Practices Restrictions:** Extensive rules to restrict misleading advertising or other misleading, illicit, immoral, or aggressive business practices, acts, and omissions are in place. Consumer-facing start-ups should ensure that new and proposed commercial practices are in line with these rules.

CONSUMER PROTECTION, CONT'D

It should also be noted that Greek consumer protection laws have been recently updated to tackle issues created due to the rapid development of new technologies. Due to that, sets of rules for developers and importers of consumer IoT, AI, and 3D printing products are currently in place.

st but not least, companies operating in Greece should keep in mind that the consumer protection and transparency provisions of EU's recent Digital Services Act (DSA) and Digital Markets Act directly apply to companies operating in Greece.

Greek Law 5099/2024 which clarifies some of DSA's implementation details in Greece, was introduced in April 2024, designated the National Council for Radio and Television (NCRTV), The Hellenic Telecommunications and Post Commission (EETT), the Hellenic Data Protection Authority (HDPA), and the Cyber Crime Division of Hellenic Police as competent authorities for the application and enforcement of the Digital Services Act in Greece. On top of the DSA's obligations, Law 5099/2024 requires the registration of intermediary service providers who have their primary establishment in Greece or whose legal representative resides or is established in Greece to a special registry of intermediary service providers which is operated under the responsibility of EETT.

TERMS OF SERVICE

Terms of service in Greece are only enforceable when the consumer has been transparently informed about their provisions before the conclusion of a sale. Companies should try to ensure that measures to prove that a consumer had access and read the terms of service (such as tick-boxes for online sales or signature lines for offline sales), prior to entering into the contact, are in place. Predetermined terms of service shall be drafted in a transparent, easily understood, and precise manner. When an international company makes online sales to Greek consumers, its Terms of Service must be available in Greek.

Any terms or agreements which were specifically negotiated supersede the provisions of the general terms of service. The law provides that, when in doubt, Courts shall interpret predetermined terms of service in a way that favors consumers.

Any term of service provision which may result in the disruption of the obligation balance between the seller and the consumer are illegal and void. Examples of such terms, directly mentioned within legislation are, inter alia, the following:

- Terms providing the seller with an unreasonably long deadline to accept the consumer's offer/order.
- Terms restricting the sellers liability, beyond what was agreed and/or what is provided for by law.
- Terms introducing unreasonably short deadlines for the consumer to terminate the contract or for unreasonably long deadlines for the seller to terminate the contract.
- Terms which allow for the automatic renewal of the contract for extensive time periods, if the consumer does not terminate the contract in time.
- Terms allowing the seller to unilaterally change or terminate the contract without a specific, sufficient, and just cause.
- Terms which attempt to pass the liability of the seller or importer of the products exclusively to their producer.

It should be noted that Greek Court case law, requires a much higher standard of proof for business clients to validly claim that terms of service are invalid, compared to the one required for consumers.

TAX/FUNDING

Tax:

- Applicable tax rates for Greek entities are provided in the Greek Income Tax Code. Separate tax brackets and rates are applicable to different scenarios which may be applicable to the daily functions of startups/corporate entities. The applicable flat income tax rate for corporate entities is set to 22%.
- For natural persons, a gradual tax rate is applicable, depending on the annual income of the natural person. A tax rate of 9% is applicable to the lowest income bracket, which raises up to 44% for the highest income bracket.
- Different tax rates apply to income from distributed dividends to the shareholders and to investment income.
- Companies are also subject to a tax applicable to the raising of capital. However, this tax is not applicable to the capital contributed during the initial establishment of a new company/corporate entity.
- Depending on the type of corporate entity/structure established, provisions for tax exemptions for intra-group dividends and expenses may be applicable to some startups. However, it shall be notes that Greek tax law also provides for multiple provisions related to controlled foreign entities as a tool to avoid tax evasion. Thus, increased documentation and transparency obligations might be applicable to corporate entities who wish to control or form part of a group with controlled foreign companies.
- Lastly, it shall be noted that, currently, the legal, regulatory, and tax regime concerning the use and taxation of crypto assets and cryptocurrencies in Greece is not fully developed. As a result, it is recommended that companies whose business model/s revolve heavily around crypto assets stay up to date with the rapidly evolving regulatory environment in the country, in order to be able to make informed business and tax-related decisions.

Funding:

- **National Startup Registry:** An official record of startups operating in Greece has been established under Greek Law. Companies which fulfill the eligibility criteria may apply to be included in the Registry. Members of the registry gain access to benefits such as targeted state-funded financial support measures and networking opportunities. Additionally, under Greek law, Angel Investors are only allowed to invest in companies which are included in the National Startup Registry.
- **Funding Opportunities through the ΕΣΠΑ program:** In recent years many funding opportunities for startups and innovative business plans can be sought under funding programs of the "National Strategic Reference Framework 2021-2027" (Εταιρικό Σύμφωνο Περιφερειακής Ανάπτυξης – "ΕΣΠΑ") program, which aims to distribute both national and EU funds to crucial sectors for the development of the Greek Economy. Startups may seek relevant opportunities and calls in the program's webpage (https://www.espa.gr/el/pages/default.aspx).
- **Residency Visa for Startup Investors:** As part of the initiatives/incentives to enhance startup funding in Greece, a 2024 Greek Law enables investors who invest, at a minimum, 250.000€ to the capital of Greek startup companies, who are registered in the abovementioned National Startup Registry, to apply for a residency visa in Greece.

WHAT ELSE?

Strategic Investment Legislation: Recent strategic investment legislation provides benefits for strategic investments which take place in Greece. The purpose of the legislation is to provide incentives for strategic investors to invest in Greece and to reduce investment risks and uncertainty for such strategic investments.

Different grades of strategic investments are recognized under the law. In most cases, for a beneficiary to fall within the scope of the legislation, an investment of at least 75.000.000€ is required. However, investments in specific market sectors, such as RnD or biotechnologies, and investments related to digital transformation or the provision of Cloud Computing Services, may be considered "strategic" starting from 20.000.000€.

Benefits for strategic investments may include fast-track procedures for obtaining permits, licensing and approvals by Public Bodies and authorities, investment subsidies, and tax incentives.

Additional Rules for Online Marketplaces: Various legal provisions have introduced additional rules for Online Marketplace service providers. Such rules include Know Your Business Costumer (KYBC) obligations applicable during the onboarding of seller/businesses in the Marketplace, rules relating to advertising in the Marketplace, and rules concerning the transparency of recommender and ranking systems and algorithms used in the Marketplace.

Regulation of specific markets: Additional rules and regulatory frameworks are in place for companies wishing to operate in specific market sectors, such as fintech and investment services, gambling, telecommunications, and energy.

Strict jurisdiction: Greek Courts are rather strict when it comes to the protection of employees, consumers, data subjects and other protected groups of the population. For businesses, the risk of non-compliance in these fields of law is rather high. It is thus recommendable to focus on these topics first, when rolling out a business in Greece.



HONG KONG

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HONG KONG

LEGAL FOUNDATIONS

Hong Kong is an autonomous Special Administrative Region (SAR) of the People's Republic of China. The Basic Law is the mini constitution of Hong Kong that sets outs the political status of Hong Kong, and individual rights of persons in Hong Kong. The Basic Law guarantees Hong Kong a high degree of autonomy until 2047.

The legal system of Hong Kong is based on the rule of law and the independence of the judiciary. Under the principle of 'one country, two systems', the Hong Kong legal system is different from that of Mainland China, and is based on the common law supplemented by statutes.

Under the Basic Law, Hong Kong has been authorised by the National People's Congress to exercise independent judicial power, including the power of final adjudication. The courts of Hong Kong exercise judicial power independently, free from interference. Members of the judiciary are immune from legal action in the performance of their judicial functions. Judges are constitutionally required to determine and handle cases strictly in accordance with the law and legal principles.

CORPORATE STRUCTURES

Pre-incorporation

Many founders will operate as individuals in the early concept stage, and perhaps only consider a Founder Collaboration Agreement to organise affairs between them. This is a commercial agreement between founders in the form and style of a binding term sheet. The Founder Collaboration Agreement will summarise the key terms agreed by the founders in respect of important features of the business, including:timing of incorporation;

- timing of incorporation;
- initial shareholding of founders;
- assignment of intellectual property rights; and
- reverse vesting of shares held by founders.

These terms will require more formal agreements once the business has incorporated.

The decision to create a formal business structure is usually reached quite early in the development of the business. Common triggers include:

- the creation of any material value (especially intellectual property);
- an increase in the risk environment, particularly if it impacts personal liability of the founders; and
- investment or grant funding.

HONG KONG

CORPORATE STRUCTURES

Private Company Limited by Shares

Legal status: A private company may be limited by shares. This means that the liability of shareholders will be limited to the unpaid capital on their issued shares in the company. A private company must restrict the right to transfer its share, limit the number of shareholders to 50 (excluding employees and former employees), and prohibit any invitation to the public to subscribe for any shares or debentures of the company.

Requirements: A private company limited by shares incorporated in Hong Kong must have at least one director, one company secretary and one registered shareholder. One of the directors must be a natural person. The company secretary and the shareholders can either be natural persons or a body corporate. The company secretary must be resident in Hong Kong. There are no other residency requirements for officers or shareholders of the company. A sole director must not also be the company secretary.

Significant controller: A private limited company must maintain a significant controller register. This will contain details of persons who directly or indirectly hold more than 25% of the issued shares or voting rights in the company or otherwise exercise significant influence or control over the company (including rights to appoint the majority of directors). The significant controller register is not a public document, but may be inspected by enforcement authorities in prescribed circumstances.

Registered office: Every Hong Kong private limited company must have a registered office in Hong Kong for communications and notices.

Accounts: The accounting records of the company must be audited for each financial year, sent to the shareholders and laid before shareholders in an annual general meeting. The audited accounts for private limited companies do not need to be publicly filed or disclosed.

Share capital: There is no prescribed minimum or maximum share capital for any type of company in Hong Kong. A company can be formed with different types or classes of shares including ordinary or preferred shares with special rights attached to them. These must be set out in the company's Articles of Association. If no separate share classes are designated, then the shares will be considered ordinary shares.

Annual general meeting: Every Hong Kong private limited company must hold an annual general meeting of its shareholders nine months after the end of its accounting reference period for that financial year. If the first accounting period exceeds twelve months, then the private company must hold an annual general meeting nine months after the anniversary of the company's incorporation.

Annual return filing: Annual returns must be delivered to the Registrar of Companies for registration within 42 days after the anniversary of the date of the company's incorporation.

Business registration: Every company incorporated in Hong Kong must obtain a business registration certificate. The application must be made within one month from the start of business.

Timeline for incorporation: The Certificate of Incorporation and the Business Registration Certificate is usually available within five working days. The company legally exists from the date of incorporation.

Other Business Structures

Other available business structures in Hong Kong include registration of non-Hong Kong companies, registration of representative office, general partnership, limited liability partnership, and sole proprietorship.

HONG KONG

ENTERING THE COUNTRY

Foreign Investment

Free Market: Hong Kong policy promotes free trade and free market principles with minimal government intervention. Generally, there is no distinction in law and practice between investments by foreign-controlled companies and those controlled by local interests. In most conditions, foreign companies and individuals can incorporate their operations in Hong Kong without discrimination and undue regulation.

No Exchange Controls: The Basic Law of Hong Kong provides that no foreign exchange control policies can be applied in Hong Kong and that the Hong Kong dollar must be freely convertible.

Free Port and Trade: The Basic Law also requires that Hong Kong is maintained as a free port, and that Hong Kong pursues a policy of free trade that safeguards the free movement of goods, intangible assets and capital. Consequently, no tariff is charged on import or export of goods. Licensing is only required for the import and export of certain limited classes of dangerous or controlled goods (such as optical disc mastering and replication equipment, and radio transmitting apparatus).

Immigration

Immigration: Hong Kong is a separate travel area from Mainland China. Hong Kong has visa-free entry for residents from over 170 countries and territories for trips ranging from seven to 180 days. In broad terms, short-term visitors may conduct business negotiations and sign contracts while entering Hong Kong on a visitor or entry permit.

Employment Visa: All persons having no right of abode or right to land in Hong Kong, must obtain an entry permit/employment visa before coming to Hong Kong for the purpose of employment. Applications should be made through the sponsor (usually the employer company in Hong Kong). It must be demonstrated that the proposed employee has special skills, knowledge or experience not readily available in Hong Kong.

Investment Visa: This requires the applicant to establish or join in business in a Hong Kong registered company. The applicant will be required to produce details on the viability of the proposed business and demonstrate that the applicant is in the position to make substantial contribution to the economy of Hong Kong.

Top Talent Pass Scheme (TTPS): This scheme seeks to attract talented persons with rich work experience and good academic qualifications to enter Hong Kong. This top talent includes high-income professionals and graduates from the world's top universities.

Dependant Visa: Persons who are successful in receiving one of the above visas may also bring their spouse or civil partner (including the other party to a same-sex civil partnership, union or marriage) and unmarried dependant children under the age of 18 to Hong Kong provided there are sufficient funds and suitable accommodation for them. The limit on their stay is the same as that of the applicant sponsor. Normally, dependant visas are issued as a matter of course as long as the requisite relationship exists. A person holding a dependant visa is allowed to undertake any type of lawful employment in Hong Kong.

HONG KONG

INTELLECTUAL PROPERTY

Jurisdiction: Mainland China and Hong Kong are separate jurisdictions. Registration in one jurisdiction does not extend protection to the other. IP owners must register IP rights separately in each jurisdiction for coverage and protection.

Trademarks

Application for trademark registration: An application for registration of a trademark can be made online through an e-filing system, or filed by post or by hand with the Trade Marks Registry, Intellectual Property Department of Hong Kong. If the Registrar accepts the application for registration, particulars of the application will be published in the Hong Kong Intellectual Property (HK IP) Journal to provide an opportunity for the public to oppose the application for three months. If no notice of opposition is given within this period, a certificate of registration will be issued and notice of registration will be published in the HK IP Journal.

Duration of protection: Upon registration in Hong Kong, the validity of the registered trademark will last for 10 years beginning on the filing date of the application for registration. The registration must be renewed every 10 years with the payment of a prescribed renewal fee stated below for extending the period of another 10 years.

Treaties: Legislation was passed in Hong Kong to empower the Registrar of Trade Marks to make rules in Hong Kong to implement the Madrid Protocol for International Registration of Marks. Nonetheless, the Madrid System is not yet implemented in Hong Kong. The Paris Convention for Protection of Industrial Property and the Nice Agreement on International Classification of Goods and Services apply to Hong Kong.

Patents

Types of patents: There are two types of patents available in Hong Kong, being the standard patent and the short-term patent.

Standard patent (O): A standard patent can be an original grant patent by means of direct application in Hong Kong. A standard patent (O) must satisfy both the formality of the application process and substantive examination by the Registrar of Patents. The substantive examination will determine whether the claimed invention is new, involves an inventive step, and is capable of industrial application. The period of protection for a standard patent (O) is 20 years.

Standard patent (R): A standard patent can also be granted on the basis of a re-registration of a patent granted by the China National Intellectual Property Administration, the European Patent Office (designating the United Kingdom), and the United Kingdom Intellectual Property Office. A standard patent (R) is only subject to a formality examination by the Registrar of Patents. Formality examination is an examination of the information required in the application form and the supporting documents. A standard patent (R) is valid for 20 years from the filing date at the designated patent office.

Short term patent: A short term patent granted in Hong Kong is based on a search report from designated searching authorities outside Hong Kong. A short-term patent is only subject to a formality examination by the Registrar of Patents. There is no substantive examination of the application. A short-term patent having a protection term of up to eight years, being an initial term of four years renewable for an additional four years.

Treaty: The Patent Cooperation Treaty (PCT) applies to Hong Kong.

INTELLECTUAL PROPERTY, CONT'D

Designs

Application: An application for registration of a design may be made online through the e-filing system or filed by post or by hand with the Design Registry, Intellectual Property Department of Hong Kong. The application is only subject to a formality examination by the Registrar of Designs, and no substantive examination is undertaken. If the application is in order, the Registrar of Designs will register the design and publish it in the HK IP Journal. A certificate of registration will be issued.

Duration of protection: A design right in Hong Kong is valid for 25 years from the filing date. The owner can claim a priority date if the design is first applied in a Paris Convention Country or the World Trade Organization (WTO) member within six months prior to the application in Hong Kong. However, it is still necessary to prove the design is new at the priority date.

Treaties: The Hague System for International Registration of Industrial Designs does not apply to Hong Kong.

Copyright

No registration: Hong Kong does not have a government-established copyright registry. Copyright automatically arises when a work is created. To enforce copyright, it may be necessary to offer independent evidence of the existence of the copyright.

Duration of protection: The general rule is that copyright lasts until 50 years after the creator of the work dies.

Licences: Copyright owners may license the copyright of their works (a) by standard terms licences, (b) by licences under licensing schemes; or (c) on terms negotiated on a case-by-case basis. A localised version of creative commons licences was introduced in Hong Kong by Creative Commons Hong Kong for those who wish to make copyright work available for free under the governing terms of the selected creative commons licence. Hong Kong also has copyright licensing bodies which are authorised by copyright owners to grant, on their behalf, licences to users of copyright works. Some of these licensing bodies have registered on a voluntary basis with the Copyright Licensing Bodies Registry.

Treaty: A number of international treaties in respect of copyright apply to Hong Kong. These include:

- the Berne Convention for the Protection of Literary and Artistic Works;
- the Universal Copyright Convention;
- the Geneva Convention for the Protection of Producers of Phonograms;
- the WIPO Copyright Treaty;
- the WIPO Performances and Phonograms Treaty; and
- the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

Trade Secrets

No legislation: Hong Kong does not have specific trade secret legislation, and trade secrets are protected by the common law principles of confidence. An obligation of confidence will arise whenever the information is communicated to or acquired by a person who knows or ought as a reasonable person to know that the other person wishes to keep that information confidential.

Remedies: Remedies include injunctions, damages, account of profits and delivery up of materials containing trade secrets. The owner of trade secrets may also seek orders or undertakings in respect of third parties who have unlawfully received trade secrets.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets, cont'd

Non-Disclosure Agreements: Protection of trade secrets is typically achieved by non-disclosure terms and conditions that are contained in a standalone agreement or incorporated into employment or commercial agreements. The non-disclosure terms and conditions will include provisions not to disclose trade secrets, to limit the use of trade secrets to specific purposes, and to deliver up materials containing trade secrets on demand.

Practical measures: Each business should take practical measures to protect valuable proprietary trade secrets. This should include measures to have levels of access control, monitoring of use of trade secrets, regular IP audits, market monitoring, and segregation of workflows.

Enforcement

Civil: Civil remedies are available through local courts. Hong Kong courts often follow UK court decisions in IP matters.

Criminal: Infringement of certain IP rights may result in criminal sanctions.

Customs: The Customs service will work with holders of registered IP rights to seize and forfeit infringing goods entering Hong Kong. It is possible to establish and maintain communication channels with enforcement officials.

HONG KONG

DATA PROTECTION/PRIVACY

Context

Constitutional Status: The Basic Law is the key constitutional document of Hong Kong. The right to privacy is recognised in Article 30 of the Basic Law, and in Section 8, Article 14 of the Hong Kong Bill of Rights Ordinance.

Legislation: The Personal Data (Privacy) Ordinance (the "PDPO") was passed in 1995 and took effect from December 1996 (except certain provisions). It is one of Asia's longest standing comprehensive data protection laws. The PDPO underwent major amendments in 2012 and 2021.

Authority: The Office of the Privacy Commissioner for Personal Data ("PCPD") is an independent statutory body set up to oversee the enforcement of the PDPO. The courts of Hong Kong have jurisdiction to deal with privacy and data protection related matters.

Key Principles

Data Protection Principles: The PDPO sets out six Data Protection Principles ("DPPs"):

- **DPP1:** Personal data must be collected in a lawful and fair manner, and the data user must give specified information to a data subject when collecting his personal data.
- **DPP2:** Personal data must be accurate and up-to-date, and kept no longer than necessary.
- **DPP3:** Personal data should only be used for the purposes for which they were collected or a directly related purpose. Otherwise, the data user must obtain the "prescribed consent" of the data subject.
- **DPP4:** The data user must have measures in place for the confidentiality and security of personal data.
- **DPP5:** Data users must provide general information about the kinds of personal data they hold and the main purposes for which personal data are used.
- **DPP6:** Data subjects must be given a right of access to their personal data, and to correct them.

Collection: On or before collection of personal data, all practicable steps must be taken to ensure that the data subject is informed of (a) whether the supply of the data is voluntary or obligatory, (b) the purposes for which the data are to be used, and (c) the classes of persons to whom the data may be transferred. Before first use of personal data, the data subject must also be informed of: (a) his right to request access to, and to correct, the data, and (b) the name or job title, and address, of the individual who is to handle any such request. These obligations are typically fulfilled by providing a personal information collection statement with the prescribed information to the data subject on or before the collection of personal data.

Data Processors: If personal data is entrusted by the data user to a data processor, the data user is liable as the principal for any act done by its authorised data processor. The data user must adopt contractual or other means to prevent any personal data transferred to the data processor from being kept longer than necessary for processing the data, and to prevent unauthorised or accidental access, processing, erasure, loss or other inappropriate use of the personal data.

Direct Marketing: A data user engaging in direct marketing must first obtain the data subject's consent. The consent of a data subject must be the explicit agreement by the data subject to indicate that he consents or does not object to the use or provision of his personal data for use in direct marketing. If a data subject has orally consented to a data user using the personal data for direct marketing, the data user must confirm prescribed particulars of that consent within 14 days. A data subject may request that a data user ceases to use his personal data for direct marketing without charge (also known as the opt-out request).

It is a criminal offence, punishable by fine and imprisonment, to use personal data for direct marketing without the consent of the data subject. It is a separate offence for data users to provide a third party with personal data for the purposes of direct marketing in return for payment and without the data subject's consent.

DATA PROTECTION/PRIVACY, CONT'D

International Data Transfers: There are restrictions on transfer of personal data to overseas jurisdictions in section 33 of the PDPO, but these provisions have not come into effect. Nonetheless the transfer of personal data is in itself a form of use of the personal data, and a data user must give notice to explicitly inform data subjects of the purpose (in general or specific terms) for which the personal data is to be used and the classes of persons to whom the data may be transferred. The PCPD has published two sets of recommended model contractual clauses for use by data users in respect of international data transfers. These cater for two scenarios, being the transfer of personal data from one data user to another data user and the transfer of personal data from a data user to its data processor.

Data Breach: There is no general mandatory data breach notification requirement in Hong Kong, though notification requirements may arise in certain regulated sectors. The PCPD has consistently encouraged data breach notification as recommended best practice and has commented adversely in its Investigation Reports in respect of any failure or delay to report a data breach.

Data Subject Rights

Data Access: Data subjects are entitled to request access to personal data.

Data Correction: Data subjects are entitled to request the correction of personal data without charge to the data subject. This data correction request must be preceded by a data access request.

Data Deletion and Portability: Data subjects do not have the right to require data users to delete their personal data, nor to require the transfer of their personal data to persons prescribed by the data subject.

ARTIFICIAL INTELLIGENCE

There is no specific regulatory regime in relation to AI in Hong Kong. The Hong Kong authorities have relied on existing legislation with sector-specific guidelines from regulators that oversee the use of AI.

Existing Legislation

The key relevant existing legislation is the Personal Data (Privacy) Ordinance. If organisations need to set up and train their own AI models, organisations should be aware of the Data Protection Principles ("DPP") in the PDPO. These are the key DPPs to observe in the preparation of datasets where personal data is involved:

- Collect an adequate but not excessive amount of personal data by lawful and fair means;
- Refrain from using personal data for any purpose that is not compatible with the original purpose of collection, unless express and voluntary consent of the data subjects has been obtained, or the personal data has been anonymised;
- Take all practicable steps to ensure the accuracy of personal data before use;
- Take all practicable steps to ensure the security of personal data; and
- Erase or anonymise personal data when the original purpose of collection has been achieved.

Also, data users should pay attention to the risks of data scraping when preparing datasets for AI models. Data scraping generally involves the automated extraction of data stored on social media platforms or websites. Mass data scraping incidents that harvest personal data may constitute data breaches that trigger the need to make a data breach notification to the PCPD (see Section 5 above).

PCPD Guidelines

Organisations should consider and implement the PCPD's recommendations in the Artificial Intelligence: "Model Personal Data Protection Framework" ("Model Framework"). The document will become a touchstone for the PCPD in future guidelines, policies and enforcement actions.

The Model Framework provides best practices for the governance of AI and protection of personal data privacy for organisations that procure, implement and use AI systems. The recommendations include four key measures:

- Establish an AI governance strategy that should include (i) an AI strategy, (ii) governance considerations for procuring AI solutions, and (iii) an AI governance committee (or similar body) to steer the process;
- Conduct risk assessments and maintain human oversight for the procurement, use and management of AI systems;
- Implement continuous management of AI systems, including rigorous testing and validation of the AI models in proportion to the level of risks involved; and
- Communicate and engage with stakeholders effectively and regularly on the use of AI.

In addition to the Model Framework, organisations should also take heed of the PCPD's Checklist on Guidelines for the Use of Generative AI by Employees ("Checklist"). The Checklist will assist organisations in formulating internal policies governing employee use of Generative AI tools at work.

The Checklist sets out recommended policy coverage, including:

- Specifying the scope of permissible use of Generative AI tools in the workplace;
- Protecting personal data privacy, ensuring compliance with the PDPO and the organisation's privacy obligations;
- Ensuring lawful and ethical use, including taking steps to prevent bias and harmful outputs;
- Implementing data security measures, including restrictions on uploading sensitive information onto AI systems;
- Specifying consequences for violations of the organisation's internal policies; and
- Supporting and training employees in using Generative AI tools safely, responsibly and in a compliant manner.

ARTIFICIAL INTELLIGENCE, CONT'D

Digital Policy Office Guidelines

Originally intended to assist the government bureaux and departments in navigating the use of AI, the Digital Policy Office ("DPO") published the "Ethical Artificial Intelligence Framework" ("Ethical AI Framework") as a general reference for organisations when adopting AI.

The Ethical AI Framework provides:

- A Tailored AI Framework, which includes Ethical AI Principles to be followed when designing and developing AI applications, and an AI Governance Structure that defines standard structures, roles and responsibilities over the adoption process of AI; and
- An AI Assessment, consisting of an AI Application Impact Assessment template to ensure that the Ethical AI Principles have been considered.

Organisations should regularly conduct the AI Application Impact Assessment to identify benefits and risks of AI, and identify follow-up actions to ensure its ethical use.

The Ethical AI Framework is supplemented by the Hong Kong Generative Artificial Intelligence Technical and Application Guideline which provides a governance structure for Generative AI across five dimensions: (i) personal data privacy, (ii) intellectual property, (iii) crime prevention, (iv) reliability and (v) trustworthiness within a four-tier risk classification model (unacceptable, high, limited and low risk). This technical guide contains role-specific recommendations for developers, intermediaries and enterprise users of Generative AI and is increasingly used as an industry benchmark, alongside the Ethical AI Framework.

The Model Framework and the Ethical AI Framework, together with these other above guidelines, offer general guidance that is not industry-specific. Regulators of various sectors are gradually introducing guidelines of their own. For example, the Hong Kong Monetary Authority, being the regulator for banks in Hong Kong, and the Law Society of Hong Kong for solicitors, have already issued industry-specific guidance. Organisations should keep abreast of any guidelines issued by regulators of their own field.

HONG KONG

EMPLOYEES/CONTRACTORS

Employment

Contract of employment: A contract of employment need not be in writing. However, if the employment contract is not in writing, the employer must provide written notice of conditions of employment upon request by an employee before his employment starts.

Minimum wage: A statutory minimum wage applies to all employees, regardless of whether they are employed under a continuous employment contract, with very limited exceptions.

Wages: Wages become due on the expiry of the last day of the wage period and must be paid as soon as is practicable but in any case not later than seven days thereafter. The failure for any employer to comply with this provision constitutes a criminal offence. An employer must immediately terminate a contract of employment in accordance with its terms, if the employer believes that it will be unable to pay wages due under the contract.

Mandatory provident fund: The Mandatory Provident Fund Schemes Ordinance (Cap. 485) requires that every employer in Hong Kong contributes an amount equal to at least 5% of an employee's relevant income (up to a maximum contribution of HK$1,500 per month) to a retirement scheme that is registered as an MPF scheme. Every employee will also be required to contribute at least 5% of his relevant income (again up to a maximum of HK$1,500 per month) to the scheme.

Insurance coverage: Under the Employees' Compensation Ordinance (Cap. 282), employers are required to maintain insurance coverage in respect of work-related injuries. There is no statutory requirement to provide medical benefits otherwise.

Intellectual property: Intellectual property which is created in the course of permanent employment duties is usually the property of the employer. An employment contract can provide additional rights in respect of work created outside employment and can impose obligations for signing documents and making filings that can continue after the employment ends.

Confidential information: In the course of an employment, an employee may come across different kinds of information, including trade secrets, confidential information, skills and knowledge and other non-confidential information. Trade secrets of an employer will be protected during employment and after termination of employment, even if there is no express provision in the employment contract. Confidential information will be protected during employment, but generally not after termination of employment. However, a provision in the employment contract can protect the secrecy and use of confidential information after termination, provided the confidential information is not know how.

Protective covenants: The basic rule developed by the common law Courts is that each person should be free to use his skills and experience in future employment and that any agreement restraining competition is on the face of it void and unenforceable. However, contractual provisions restraining an employee from competing with his former employer or from working for a competitor are enforceable if the degree of restraint imposed on the employee is reasonably necessary for the protection of some legitimate interest of the employer, goes no further than necessary for the protection of such interests, and is not against the public interest.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of Employment

Termination by agreement: Termination by agreement occurs where a contract is for a fixed term or for a particular task and the term has expired, the task has been completed, or where the parties agree to terminate.

Termination by notice or payment in lieu: The employer and employee can agree on a notice period for termination, subject to a minimum of seven days notice for any continuous contract. A contract may be terminated by notice or by either party agreeing to pay to the other a payment in lieu of notice.

Summary dismissal without notice: An employer may terminate a contract of employment without notice or payment in lieu:

- if an employee, in relation to his employment:
  - wilfully disobeys a lawful and reasonable order;
  - misconducts himself, such conduct being inconsistent with the due and faithful discharge of his duties;
  - is guilty of fraud or dishonesty; or
  - is habitually neglectful of his duties; or
  - on any other ground on which the employer would be entitled to terminate the contract with notice at common law.
- on any other ground on which the employer would be entitled to terminate the contract with notice at common law.

Wages owing up to the time of dismissal must be paid plus annual leave pay accrued and owing at the date of termination. Severance payment and long service payment are not payable to an employee who was dismissed by the employer's valid summary dismissal.

Resignation without notice: An employee is entitled to resign without notice in circumstances where the employer is guilty of serious misconduct or a serious breach of the contract. A specific ground of resignation without notice is when wages are not paid to the employee within one month from the date on which they become due to him.

Wrongful termination: Wrongful termination is a termination otherwise than in accordance with the terms of the contract or without giving notice required or making payment in lieu. Under the Employment Ordinance, the party in default must pay to the other a sum equal to the amount which would have been payable by the employer had the employer terminated the employment lawfully by payment in lieu of notice. An employer wrongfully terminating will generally have to pay the employee his other accrued benefits.

By operation of law: An employment contract may terminate because of an external event. This could occur, for instance, if the employment becomes illegal or as a result of the death or insolvency of the employer. Payments may be due depending on the circumstances.

EMPLOYEES/CONTRACTORS, CONT'D

Contractors

Status: Individuals who perform services will typically fall into one of two categories under Hong Kong law. These are employees who enter into a contract of employment to serve an employee, and contractors who enter into a contract to provide services to another person. The distinction is important. The employment relationship has particular duties and obligations (including different statutory rights and tax treatment) that do not apply in a contractor relationship. Businesses need to properly consider which model of obtaining services they wish to use, and ensure it is properly implemented as a matter of fact and law.

Contractor characteristics: A contractor who is genuinely self-employed is not an employee and does not have employment rights or duties. The classic characteristics of a self-employed contractor are that the contractor provides his own skill and work in return for pay, with a high degree of control of his own activities and how he conducts the performance of his services. The nature of the arrangements must also be consistent with self-employment.

Risk: If key contractor characteristics are absent in the relevant contract, or in how the contract is performed, then there is a risk that the contractor may be able to claim that he is an employee. This, in turn, may mean the person can claim entitlements and rights that flow from employment status. Also, taxation issues can arise for businesses and contractors if contractors wish to be engaged via a services company.

Factors to consider: From the business owner's perspective, the engagement of a contractor carries a lower administrative burden. The contractor is responsible for his own immigration status. The business is not required to enrol the contractor in the business' MPF scheme. Fees, services and deliverables, and termination of services can be determined by contract. Contractor arrangements are sometimes preferred as a means of avoiding business establishment concerns if only one person will be providing services in Hong Kong. However, the business will have less control over the activities of the contractor, and must be prepared to accept that the contractor may perform services for others.

No hybrid status: Presently, Hong Kong law only recognises the status of employee and contractor. There is no statutory recognition for a separate category of workers who are neither employees nor contractors, and no specific laws that focus on issues arising from the gig economy.

Intellectual property: Intellectual property rights in respect of the work product of contractors will largely be determined by the agreement between the business and the contractor.

CONSUMER PROTECTION

Provisions for consumer protection are found in various legislation in Hong Kong.

Contract Terms

Sale of Goods Ordinance: Goods sold in the course of business have an implied condition that the goods supplied:

- with good title and the seller has the right to sell the goods free from undisclosed encumbrances;
- are of merchantable quality;
- fit for purposes made known by to the seller; and
- correspond with any sample or description given to the buyer.

Under the Control of Exemption Clauses Ordinance, these implied conditions cannot be excluded or restricted in sale of goods to persons dealing as a consumer.

Supply of Services (Implied Terms) Ordinance: This Ordinance provides for implied terms in contracts for the delivery of services, including implied terms that:

- services will be carried out with reasonable care and skill;
- if the contract is silent on timing for delivery of services, the services will be performed within a reasonable time; and
- if the contract is silent on charges, the service recipient will pay a reasonable charge.

It is not permitted for the service supplier to seek to exclude these implied terms if the service recipient deals as a consumer.

Control of Exemption Clauses Ordinance: Exemption clauses seek to limit or exclude liability of a party. Some key provisions are that it is not permitted to exclude or restrict liability for death or personal injury resulting from negligence, and any exclusion or restriction of liability must be reasonable if it relates to other loss or damage arising from negligence, or breach of contract.

Unconscionable Contracts Ordinance: This legislation empowers the Court to refuse to enforce any part of a contract (in whole or in part) in which one of the parties is dealing as a consumer that the Court has found to be unconscionable.

Promotion and Marketing

The Trade Descriptions Ordinance prohibits manufacturers, retailers and service providers from misleading consumers in respect of goods and services provided in the course of trade, and prohibits other unfair trade practices.

A person commits an offence under the Trade Descriptions Ordinance if he:

- supplies a false trade description to any goods/services;
- offers to supply any goods/services to which a false trade description is applied; or
- has in his possession for sale or for any purpose of trade or manufacture any goods to which a false trade description is applied.

A seller who adopts unfair trade practices also commits an offence. Unfair trade practices include misleading omissions, aggressive commercial practices, bait advertising, bait and switch tactics and wrongly accepting payment.

Other Legislation

Hong Kong law also contains consumer protection legislation in respect of specific industries or circumstances. These include legislation dealing with product safety, consumer credit, medicine and health, dangerous, controlled and prohibited goods, and specific provisions in legislation regulating estate agents, money changers and travel agents.

HONG KONG

TERMS OF SERVICE

Terms of Service: Online Terms of Service are usually uploaded on a company's website or downloaded with an application, and provide the contractual terms for the use of the website in question and the online purchase of goods or services via the website or application.

Electronic contracts: Terms of Service often contain provisions in relation to the formation of contract and making payments via the website or application. In general, contracting online is subject to the same requirements as contracting on paper. A contract will not be invalid or unenforceable on the sole ground that an electronic record was used to form the contract. As a matter of principle, electronic acceptance of contract offers is permitted under the Hong Kong law.

Click-wrap: Click-wrap acceptance of online terms occurs when the contracting party agrees with the Terms of Service by clicking a button or checking the "I agree" box. This commonly arises when the Terms of Service are displayed in a pop-up box in full or on a hyperlink. The general view is that clickwrap acceptance of Terms of Service is effective in Hong Kong, as active action is required from the user to confirm acceptance of the Terms of Service.

Browse-wrap: Browse-wrap acceptance of online terms occurs by notifying the online terms to the user, and deeming acceptance by their continued use of the website or application in question. The users are not required to actively agree to the Terms of Service, and there is no requirement that the user has to tick an "I agree" box. There is not a definitive guidance in Hong Kong law on whether browse-wrap acceptance is enforceable. The prevailing view is that, most likely, browse-wrap acceptance would not be valid in consumer contracts, and may not even be valid in business-to-business contracts.

Electronic signatures: Electronic signatures are considered valid in Hong Kong, subject to limited exceptions. Hong Kong adopts a technology neutral approach to what constitutes an electronic signature. The basic requirement is that the letters, characters, numbers or other symbols in digital form are attached to or logically associated with the electronic record of the contract, and were executed or adopted for the purpose of authenticating or approving the electronic record.

Online payment: There is an active market for the provision of online payment services in Hong Kong. The provision of money service operations will require a licence in Hong Kong. Consequently, most online sellers will avoid directly conducting the online payment transaction, and will engage licensed third parties to conduct online payment services. Online payment services are provided by licensed banks, payment system operators, stored value facility operators and money service operators.

HONG KONG

TAX/FUNDING

Tax

Hong Kong adopts a territorial source principle of taxation. Only profits which have a source in Hong Kong are taxable here. Profits sourced elsewhere are not subject to Hong Kong Profits Tax.

Profits Tax: Profits tax is levied in Hong Kong against all companies, at the rate of 8.25% on assessable profits up to HK$2,000,000; and 16.5% on any part of assessable profits over HK$2,000,000 (for the year of assessment 2018/19 onwards), which carry on a trade, profession or business in Hong Kong in respect of profits arising in or derived from Hong Kong.

Withholding Tax on Dividends: Generally, none. However, royalties and certain performances fees received by a non-resident (whether an individual or a corporate body) for use of intellectual property inside and outside of Hong Kong are subject to withholding tax.

Withholding Tax on Interest: Generally, none.

Capital Gains Tax: Generally, none.

VAT: None.

Funding

Startup-specific loan or funding schemes are available from government bodies or private entities. Some examples include:

- The Innovation and Technology Fund with different programmes under it, including the Innovation and Technology Venture Fund targeting innovation and technology start-ups, and the Enterprise Support Scheme to fund R&D projects on a matching basis;
- The CreateSmart Initiative;
- The Social Innovation and Entrepreneurship Development Fund;
- SME Funding Schemes from the Trade and Industry Department;
- Research and Development Cash Rebate Scheme;
- The Technology Voucher Programme; and
- Dedicated Fund on Branding, Upgrading and Domestic Sales.

If an early-stage business decides to settle itself in the Hong Kong Science and Technology Park (HKSTP) or Hong Kong Cyberport (Cyberport), they may more likely be able to apply for additional government supporting and funding programmes as part of their incubation process. Examples of these programmes are:

Programmes under the HKSTP include:

- HKSTP IDEATION Programme and the HKSTP Incubation Programme for tech-focused startups
- HKSTP Co-Acceleration Programme to support acceleration-stage, deep-tech startups;
- HKSTP Incu-Bio Programme for biomedical startups
- HKSTP Venture Fund to make direct investments into seed-to Series A stage startups; and
- HKSTP Elite Programme for enterprises to expand beyond Hong Kong.

Programmes under Cyberport include:

- Accelerator Support Programme specifically for Cyberport incubatees and alumni;
- Cyberport Creative Micro Fund for early-stage start-ups; and
- Cyberport Macro Fund to provide seed to Seres A stage funding for digital entrepreneurs.

There is an active venture capital sector in Hong Kong, with a deep and broad range of angel investors, strategic corporate investors, family offices and venture capital funds having an interest or mandates for investment into technology-focused businesses.

WHAT ELSE?

Office tenancy: A permanent office may be more suitable depending on factors such as the type of business and the regularity of clients' visits. Rental will be highest in buildings with top quality amenities located in the Central area of Hong Kong. The length of the lease varies, but is usually for an initial period of three years. The lease will include provisions in respect of the period of tenancy, the monthly rent, payment period, deposit, facilities, renewal, and termination.

Serviced offices or co-working space: Some businesses prefer to start with a serviced office or co-working space. These facilities are available across Hong Kong, and allow for use of premises that can be scaled or reduced according to the needs of the business, and usually include access to a range of business support services.

Bank account opening: Opening a business bank account in Hong Kong is straightforward and transparent. Before opening a business account, the applicant must complete the business registration and company incorporation. Most of the banks in Hong Kong follow strict due diligence and know your customer procedure. This can include a requirement that the account signatories and principal directors to be physically present at the bank in Hong Kong for opening the account.

Protection of Critical Infrastructure: The Protection of Critical Infrastructures (Computer Systems) Ordinance came into operation on 1 January 2026. It is Hong Kong's only comprehensive cybersecurity legislation, establishing mandatory organisational, preventive and incident-response obligations for designated operators of critical infrastructure with critical computer systems.

While important to be aware of, the Ordinance is unlikely to affect new businesses as it applies only to entities formally designated as operators of critical infrastructure. These include organisations within eight designated sectors, as well as other infrastructure providers whose disruption could substantially affect the maintenance of critical societal or economic activities in Hong Kong. The legislation may be relevant if the business is a supplier to a critical infrastructure operator, as the supplier terms and conditions will likely require compliance with certain cybersecurity standards.



HUNGARY

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HUNGARY

LEGAL FOUNDATIONS

The legal system in Hungary is based on civil law. Therefore, the main rules governing businesses are codified in laws and decrees. As a result of a legal reform of the 2020s, a limited precedent system has been introduced in Hungary. Consequently, there is a forming jurisprudence system for the courts to follow the legal interpretation of the Hungarian Supreme Court (Kúria).

Hungary is a unitary jurisdiction, there are no provinces or states. Local municipalities have limited powers to regulate local taxes and local matters in local government decrees.

CORPORATE STRUCTURES

Hungarian law offers four kinds of companies with the limited liability of some or all members. These are the following: **the limited partnership, the limited liability company, the private company limited by shares** and **the public company limited by shares.**

The most common forms of business associations used for establishment and suitable for generating income, acquiring assets and employing local staff in Hungary are the **limited liability company** and **private company limited by shares.**

If a foreign company does not intend to establish a company with separate legal personality, it may found a **branch office** for the same purpose. If the investor wishes to establish a local presence only to intermediate the establishment of a contractual relationship, or advertise the mother company or provide client contacts, and not perform business activity for generating income, the suitable form is a **representative office.**

CORPORATE STRUCTURES, CONT'D

The Limited Partnership

A limited partnership (in Hungarian: "betéti társaság", "bt.") is a company where there is at least one general partner and one limited partner. Liability of the general partners for the obligations of the company is unlimited and joint, while the limited partners are only liable up to their contributions. A general partner may be another company or legal entity with limited liability or a natural person which is not a general partner elsewhere.

Limited partnerships are commonly used for small enterprises and family businesses, but it can also be used to establish a structure in which the general partner is a limited company (similarly to the "Gmbh & Co. KG" in Germany). Limited parnerships have no minimum capital requirements. Establishing a limited partnership is free of registration fees and publication charges. This company form can also model US style investment fund operation, but this is not used for that purpose in Hungary, as the implemented rules of the AIFMD do not contain this company form as an option for operation of venture capital funds.

The Limited Liability Company

The limited liability company (in Hungarian: "korlátolt felelősségű társaság", "kft.", hereinafter: LLC) is the most popular and numerous company form in Hungarian business life as their organisational structure is simple (for example, they can be created by one or more members, they can be led by one or more directors, a supervisory board is only mandatory in specific circumstances, and so on) and the members' liability is limited to providing the capital contribution and other contributions set forth in the Articles of Association (Deed of Foundation) of the LLC. The quotaholders, as a main rule, are not directly liable for the liabilities of the LLC.

The minimum registered capital is HUF 3 million (approx. EUR 7,930 subject to exchange rates), which may comprise of cash and in-kind capital contributions. The minimum stake value of a quota may not be less than HUF 100,000 (approx. EUR 265 subject to exchange rates). Establishing an LCC is free of registration fees and publication charges.

The Private Company Limited by Shares

The private company limited by shares (in Hungarian: "zártkörűen működő részvénytársaság", "zrt.") is a company issuing paper or dematerialized stock, where they are not publicly listed. The private company limited is ideal for big enterprises.

The establishment of a private limited company costs HUF 100,000 (approx. EUR 265), the issue of shares requires the payment of additional fees and costs, and the amount of minimum registered capital is higher. The minimum registered capital is HUF 5 million (approx. EUR 13,220), comprised of cash and in-kind capital contributions. The rights of the shareholders in the company are embodied by their shares.

The operation of a private limited company is just slightly different from the operation of an LLC. First of all, the private company limited by shares issues shares (either paper certificates or digital shares) to its shareholders. These shares are transferable by endorsement or wire transfer. The transfer of shares can be restricted to a lesser extent, compared to the quotas of an LLC. Also, certain more strictly supervised activities (such as banking) may be pursued in the form of a private company limited by shares, but not as a limited liability company.

Branch Office

A branch office (in Hungarian: "fióktelep") is an organizational unit of a foreign company, without legal personality, vested with financial autonomy and registered as an independent form of company in Hungarian company registration records as a branch office of a foreign company.

A foreign company is entitled to conduct entrepreneurial activities through its branch office(s) registered in Hungary. Generally, in the course of such activities, the branch office proceeds in legal relations with the authorities and with third parties. There is no legal requirement for a minimum registered capital in case of a branch office, however it must be sufficient for the branch office to be able to begin its activities (renting an office space, opening a bank account, buy its assets, etc.).

CORPORATE STRUCTURES, CONT'D

Representative Office

A Representative Office (in Hungarian: "kereskedelmi képviselet") is an organizational unit of a foreign company which may not carry out any business activity to generate income. It is registered as an independent business entity in the Hungarian Company Registry and engages in the mediation and preparation of contracts, the provision of information to clients and partners, and other related client contact activities. There is no legal requirement for a minimum registered capital in case of a representative office.

In respect of all company forms, company registration also automatically results in the registration at the tax authority, however it is strongly recommended to find an accounting service provider even before establishing the company. It is mandatory for Hungarian companies to open a payment account at a Hungarian bank. As these banks tend to be strict when carrying out anti-money laundering KYC procedures, it is advisable to contact the bank well in advance before actually signing the foundation documents. It is also useful to know that changing company form, relocation or winding-up rules are EU conform, quite flexible but time-consuming, therefore careful and thoughtful preparation of such transactions is recommended.

Legal Developments: Convertible Loan and ESOP

An amendment to the Hungarian Small and Medium Enterprises Act (SME Act) entered into force on September 1, 2023, with the aim of making it easier and faster for start-ups to raise capital from investors in the form of a convertible loan. The convertible loan, also known as a convertible note, is an investment method, characterized by the fact that the loan is initially a loan but can be converted into a business share if certain events occur. It significantly facilitates the financing of start-ups, as it does not require, for example, a prior company valuation, which is a significant challenge for a start-up.

The facilitations recently introduced in Hungary are only available for start-ups that have been registered for five years or less, and are not listed on a stock exchange, have not yet paid dividends and have not been created by a merger or division. The amendment is also beneficial for the typical investors of start-ups, the so-called angel investors, as they have not been able to provide money in the form of loans to the companies without the permission of the Hungarian National Bank previously.

Another recent legal development that improved the tax treatment of ESOPs (Employee Stock Ownership Plan). Cash-strapped start-ups tend to give a minority stake from the start to employees who are with the founders in the hardest times (sharing the high risks), but later on it is also an excellent motivational tool, especially for key employees. It is typically structured after an early capital injection, as it is in the interest of both the investor and the founders to keep the team together. The special treatment for start-ups means that the triggering event of tax payment obligation only occurs when employees acquiring shares (or options) below market value sell the vested stocks after at least 3 years of vesting and/or holding).

Lastly, the new Hungarian Company Act is expected to enter into force in the beginning of 2027, which is expected to introduce a number of changes that will affect startups significantly. The new provisions will include the introduction of an automatic decision-making procedure in corporate matters, whereby courts will make their decisions without human intervention, based on automated data processing and automatic data requests, and will make their decisions within one hour, and automatically send notification thereof.

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STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Hungary intends to pursue a welcoming legal and regulatory environment for foreign investors. The establishment of a company does not require any approval or authorization of a public authority, and the company can be founded and managed by foreigners without any restrictions.

However, certain acquisitions of shares in an existing Hungarian company may be subject to **FDI screening**, which may act as a hurdle to foreign investments into or exiting from already existing companies. In Hungary there are currently two separate FDI screening regimes in force. The original set of rules introduced in 2019 is the implementation of the EU screening regime and the latter one, introduced during the coronavirus pandemic in 2020 catches a broad scope of activities. Transactions which fall under either of the two FDI Regime require both notification to and acknowledgement by the competent minister, as a precondition to the implementation of the deal which falls within the ambit of the legislation. In practice, the following shall be evaluated when assessing the need for a potential FDI approval in Hungary:

- whether the investor may qualify as a foreign investor;
- whether the Hungarian company pursues any strategic activity (as its main or ancillary activity) that is listed in the relevant FDI laws; and

other more detailed criteria concerning the acquisition threshold, the structure of the particular transaction if the first two criteria are met, where applicable the transaction value, and possible exceptions rules.

A recent Act passed in 2025, amending the relevant Hungarian FDI laws, brings significant changes to the FDI landscape. It narrows the scope of transactions that are not subject to submitting a request for FDI clearance. Additionally, a notable change introduces a right of first refusal for the Hungarian State in the field of solar power plant investments and a longer procedural deadline for FDI notifications in the field of solar power plant investments. Foreign investors seeking to acquire domestic strategic target companies engaged in photovoltaic projects must undergo a statutory pre-emption process, allowing the Hungarian State to intervene before any other party.

INTELLECTUAL PROPERTY

In or for Hungary the following IP rights can be registered or may be held based on local laws, EU rules or other international treaty obligations:

Trademarks

What is protectable? Trade mark protection may be granted for any signs, provided that these are capable of distinguishing goods or services from the goods or services of others, and can be represented in the trade mark register in a manner which enables the authorities and the public to clearly and precisely determine the subject matter of the protection applied for or granted to its holder.

Where to apply? Trademarks can be filed either with (i) the Hungarian Intellectual Property Office (HIPO), (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application of a Hungarian trademark is very similar to the procedure before the EUIPO. The HIPO then carries out the formal and the substantive examination that covers the examination of the absolute refusal grounds. With the publication in the Trademark Gazette, a three-month opposition period begins. Within this time period third parties can easily and at low costs oppose the trademark on the basis of the relative refusal grounds. If all requirements are met and no opposition is received, the HIPO registers the trademark.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for a renewable ten-year period.

Costs? Application costs for Hungarian trademarks for one class amount HUF 81,000 (extra amounts charged for additional classes). Currently, 15% discount applies to new trademark registrations made electronically. In addition, fees of the legal representative apply.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? The patent ensures legal protection of inventions by granting a better position to the owner of the invention compared to that of rivals in the market of products and technology. The owner of the patent (the inventor or his/her legal successor) has an exclusive right to exploit the solution of invention, but the period and the territorial validity of patent protection are not unlimited.

Where to apply? Hungarian patent may be obtained by national or European application or by an application submitted in the framework of the Patent Cooperation Treaty (PCT) provided that the application and the invention comply with requirements set out in laws and regulations.

Duration of protection? The patent protection is valid up to 20 years started from the day on that the patent application was filed and solely in the countries where the protection was granted. (For patents protecting pharma products a so called SPC (= supplementary protection certificate) can be claimed)

Costs? Application costs at the HIPO depends on various factors, such as whether the applicant and the inventor are the same person or whether a written opinion is requested supplementing the search report. Application costs for up to ten claims normally are in range between HUF 50,000 up to HUF 500,000 (discounts may apply). In addition fees of the legal and technical representative apply.

Employee invention and inventor bonus? According to Hungarian law, employers are entitled to commercialize employee inventions and file patent applications, if it is the employee's job responsibility to develop solutions within the scope of the invention. If it is not part of the job's responsibility to develop solutions within the scope of invention, but the exploitation of the invention developed by the employee falls within the scope of his/her employer's activities, then in this case, the patent remains with the inventor, but the employer is entitled to exploit the invention for a fee. If employer makes use of such right, employee is statutorily entitled to appropriate inventor bonus. The bonus is determined primarily by the value of the invention on the basis of the so called license analogy and is thus subject to adjustments in course of the patent life time.

Utility Model

What is protectable? The utility model protection is a legal protection for the new technical solutions not reaching the level of a patentable invention. By virtue of utility model protection, the owner of the said protection has, as provided for by legislation, the exclusive right to exploit the utility model or to license another person to exploit it.

Where to apply? The utility model protection can be obtained through the granting procedures set out in law before the HIPO. In Hungary it is also possible to obtain a valid utility model protection through an international application within the frame of Patent Cooperation Treaty (PCT). A utility model application filed in Hungary can be transformed into a European patent application within the union priority range of 12 months, if the utility model application meets the requirements of European patent applications.

Duration of protection? The protection has a term of 10 years, then the utility model becomes part of the public domain.

Costs? Application costs at the HIPO depends on various factors, such as whether the applicant and the inventor are the same person. Application costs for up to ten claims normally are in range between HUF 5,600 up to HUF 56,000 (higher fees apply if the applicant is not the inventor but a different person). In addition fees of the legal and technical representative apply.

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INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? Industrial or craft product or parts of it can be protected as design.

Where to apply? By filing (i) a design application with the HIPO, or (ii) an international application under the Hague Agreement Concerning the International Deposit of Industrial Designs, or (iii) an application for Community Design, the territorial scope of which covers Hungary

Duration of protection? It lasts for five years beginning on the filing date of the application. Upon request, this term can be renewed for further periods of five years each, four times at the most. After expiration of twenty-five years from the filing date of the application, the protection shall not be renewable anymore.

Costs? Application costs at Hungarian Intellectual Property Office depends on various factors, such as whether the applicant and the inventor are the same person. Application costs for a claim normally are in range between HUF 6,750 up to HUF 62,500 (higher fees apply if the applicant is not the designer but a different person). In addition fees of the legal and technical representative apply.

Plant Variety Protection

What is protectable? Plant variety protection ensures the legal protection of improved plant varieties (hybrids, lines, clones etc.). Plant variety protection may be granted for varieties of all botanical genera and species. The owner of the plant variety protection has exclusive right to utilise the plant variety or to give permission for it to others.

Where to apply? The application for national plant variety protection can be filed with the HIPO, while the application for a Community plant variety right can be submitted directly in the Community Plant Variety Office (CPVO).

Duration of protection? The territorial validity and the term of plant variety protection are limited, that means, the protection is valid only in the country or international organisation where it was granted. The term of plant variety protection is 25 years and in the case of vines and trees 30 years from the date of the grant of protection.

Costs? Application costs at Hungarian Intellectual Property Office depends on various factors, such as whether the applicant and the inventor are the same person. Application costs for a claim normally are in range between HUF 10,750 up to HUF 43,000. In addition fees of the legal and technical representative apply.

Geographical Indication

What is protectable? Geographical indications are collective rights that belongs to all eligible producers operating in a specific area, provided that they comply with the product specifications associated with the geographical indication in question. This means that not only those entitled to registration (applicants) are entitled to use the protected geographical indication, but anyone who produces the product bearing the indication in the geographical area concerned and in accordance with the product description. Applications for registration may only be submitted by producer groups in the case of agricultural products, wines and spirits, but in exceptional cases a single producer may also be considered a producer group, and in the case of artisanal and industrial products, a single producer may be considered a producer group under certain conditions.

Where to apply? Due to recent EU level changes in the legislation, agricultural products (including foodstuffs), wines, spirits, and artisanal and industrial products originating in Hungary may be protected at European Union or international level, but not at national level. EU protection is granted in a two-step procedure: a national phase is initiated before the competent Hungarian authority which – in case of an acceptable application – forwards it to the competent EU body for the EU level phase.

Duration of protection? The protection obtained is valid for an unlimited period of time and does not need to be renewed.

Costs? The fee for submitting an application for geographical indication is HUF 144,000.

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? Expressions of the intellectual creation of an author are protectable under the Hungarian Copyright Act (scientific, literary and artistic works). Copyright protection pertains to the author immediately with the creation of a work. No registration, no label and no other formality is required. Performances of arts works, phonograms, not creative audiovisual products, and radio and TV broadcasts are subject to so called neighbouring rights protection. Non original databases if there is a significant investment to bring about to make appear or control the content thereof, are subject to a sui generis protection.

Duration of protection? Copyright protection lasts in the life of the author and ends 70 years after the author has passed away. Neighbouring rights are protected for 50 years, save for phonograms and performances, where the phonogram was put into circulation. In this case the term of protection is 70 years. Non original databases are protected for 15 years, in case of the extension of the database the 15 years' term of protection re-commences for the extended part.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work and the indispensable right to be named or not to be named as author, to give consent to the making the work public, to withdraw this consent, to challenge uses and acts that are derogatory to the honour and reputation of the author (integrity right). The author may however grant third parties non-exclusive or exclusive licenses to use the work. In some cases the economic rights are transferable. The rights in subject-matters of neighbouring right or sui generis right protection are transferable without any limitation.

Business Secrets

What is protectable? Business secrets as such are recognized as a specific intellectual property asset, the particularity of which is that the rights pertaining to the right owner are not exclusive. The Hungarian Act LIV of 2018 on the Protection of Business Secrets protects know-how and business information of commercial value that is kept secret.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

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DATA PROTECTION/PRIVACY

National Legislation

Hungary is under the regime of the General Data Protection Regulation ("GDPR"), which is directly applicable. The current main national law on personal data protection is Act CXII of 2011 on the Right to Informational Self-Determination and Freedom of Information (hereinafter referred to as "Act"). The Act sets out the general framework for data protection and is supervised by the National Authority for Data Protection and Freedom of Information ("NAIH").

The Act applies to all kinds of data processing operations, except to the processing of personal data by a natural person in the course of a purely personal or household activity. This is an addition to the GDPR and covers manual data processing operations as well.

Special Categories of Personal Data

The Act provides that data controllers can process personal data relating to criminal convictions and offences in accordance with the rules on the processing of special categories of personal data. Companies can process such data mainly (i) based on the explicit consent of the individual; (ii) for carrying out the obligations and exercising specific rights in the field of employment and social security and social protection law; or (iii) for the establishment, exercise, or defence of legal claims.

Furthermore, a number of sector-specific laws have been amended to guarantee harmonisation with the GDPR, the main amendments are outlined below:

Labour Law

- The employer must inform the employee in writing about the restriction of their personality rights. This includes the circumstances justifying the necessity and proportionality of the restriction. Information should be made in a written form and published in a customary and generally known method at the workplace, such as by email or on the company intranet.
- The employer, works committees, and trade unions may process the personal data of employees for the purpose of labour relations and the employer also for the purpose of establishing, fulfilling, terminating, or enforcing the employment relationship. The employee may be required to present a document for this purpose, but the above data controllers do not have the option of making copies. Employees should also be informed in writing about these data processing operations, including by communication methods customary and generally known at the workplace (i.e. communication by email or publication on the company intranet).
- Biometric identification of employees is possible to prevent risks to human life, physical integrity, health, or to protect significant interests and materials protected by law or regarded as hazardous or dangerous (e.g. classified data, explosives, hazardous substances, and nuclear materials).
- The employer may process criminal personal data to determine whether the candidate or the employee is subject to the exclusion or restriction criterion specified by the law or the employer. An employer may determine such a criterion if the employment of the person concerned in a particular job would threaten the employer's substantial financial interests, trade secrets, or a significant interest protected by law. The employer must specify both the restrictive or exclusionary criteria and the conditions for the processing of criminal data, either by email or via the intranet, if this is in line with the customary and generally known method at the workplace.
- Employees may not use the IT tools provided by the employer (i.e. computer, telephone, or even an employer's WiFi network) for private purposes unless the employer explicitly authorises private use. Regardless of this fact, whether the IT or computing tool used for work is the employer's or the employee's property, its control can only cover the data related to the employment relationship. The employer must also inform an employee in writing of the terms of any inspection, either by email or by publication on the intranet, if this is in accordance with the customary and generally known method at the workplace.

DATA PROTECTION/PRIVACY, CONT'D

Labour Law, CONT'D

- Employees may not use the IT tools provided by the employer (i.e. computer, telephone, or even an employer's WiFi network) for private purposes unless the employer explicitly authorises private use. Regardless of this fact, whether the IT or computing tool used for work is the employer's or the employee's property, its control can only cover the data related to the employment relationship. The employer must also inform an employee in writing of the terms of any inspection, either by email or by publication on the intranet, if this is in accordance with the customary and generally known method at the workplace.
- In case of teleworking, the employer exercises the right of supervision primarily by electronic means. However, the employer or its representative shall routinely inspect work conditions at the place of teleworking and ensure that they are compliant with the requirements, and the employees have knowledge of and observe the provisions pertaining to them. Consequently, this may also mean that the employer carries out the supervision at the employee's home. At the same time, the workers' representative for occupational safety may enter the property where teleworking is performed with the employee's consent. The supervision cannot, however, impose a disproportionate burden on the employee or on any other person using the place of teleworking, nor infringe the privacy or dignity of the employee. The rules for the supervision, including data protection requirements, should be laid down in advance.

ARTIFICIAL INTELLIGENCE

Hungary is , urging companies to assess their AI systems for compliance with the EU Artificial Intelligence Act (AI Act). This involves reviewing AI applications, ensuring alignment with the Act's requirements, and developing risk management documentation to uphold transparency, accountability, and safety.

A new enforcement body, operating under the supervision of the Minister for National Economy, was established to:

- Operate the regulatory sandbox mandated by the AI Act, facilitating preliminary testing of AI developments.
- Conduct regulatory and market surveillance tasks as defined in the AI Act, providing a one-stop-shop service and serving as the single contact point.

The Hungarian Artificial Intelligence Council (in Hungarian “Magyar Mesterséges Intelligencia Tanács”) was established in December 2025 and is authorized to issue guidelines and opinions related to the EU AI Act's implementation.

It is worth being noted that AI may already be subject to current copyright and data protection laws in Hungary:

- As the Act LXXVI of 1999 on Copyright applies to software, it also applies to AI software. Therefore, the source code and the algorithms of an AI software may be protected by copyright law. In case of generative AI, however, the legal status of the output of a generative AI is uncertain, but it can be stated with certainty that a generative AI cannot become a copyright holder under current laws.
- The principles of data protection law – in particular Art 22 GDPR for automated individual decision-making – also apply to AI. Therefore, the use of artificial intelligence must not have legal or similarly serious consequences for the data subject, without any human intervention.

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EMPLOYEES/CONTRACTORS

General: Hungary has strict labor laws primarily codified in Act I of 2012 on the Labour Code that provide protection for employees and regulate the terms of employment. Foreign entities should be aware of these laws and should take steps to ensure that their employment practices comply with Hungarian labor laws.

Employer and employee must conclude a written employment agreement, which stipulates their rights and obligations set forth by mandatory law, collective agreements or internal policies of the employer. The interests of employees can represented by the works council which can be stablished if within 6 months period the average number of employees exceed 50 (or a shop steward stablished if within 6 months period the average number of employees exceed 15) consultation with the works council (or shop steward) is required for specific measures if such council/position is established.

A company may also offer a contractor agreement (freelance contract or contract for work and services) instead of an employment agreement. For these contracts, some protective provisions of labour law do not apply, but its terms need to be carefully considered to avoid possible tax risks embedded if such agreement may be reclassified by the tax authority into an employment contract based on factual grounds.

Work for hire: According to Hungarian law, employers are entitled to commercialize employee inventions and file patent applications, if it is the employee's duty to develop solutions within the scope of the invention. If it is not the employee's duty to develop solutions within the scope of invention, but the exploitation of the invention developed by the employee falls within the scope of his/her employer's activities, then in this case, the patent remains with the employee, but the employer is entitled to exploit the invention for a fee. If employer makes use of such right, employee is entitled to appropriate inventor bonus. The bonus is determined primarily by the value of the invention and is thus subject to adjustments in course of the patent life time.

Registration with social security: Every employer must register employees with the National Tax Authority, for the purpose of health and pension insurance. Each employer has to pay monthly 18,5 % social security duty and 13% social contribution tax based on the gross salary of the employees. In addition to that employers may establish private health or pension insurance schemes.

Termination: As a main rule the employer must give good reason to terminate both the indefinite and definite term employment agreement. Additionally, certain groups of employees (i.e. works council members, pregnant employees, employees on parental leave) enjoy special termination protection. Different rules apply to executive employees, whose employment agreements can be terminated without giving a reason.

CONSUMER PROTECTION

Hungary's primary governing consumer protection statutes are:

- Act CLV of 1997 on Consumer Protection (the "Consumer Protection Act")
- Consumer protection rules in Hungary aim to ensure the rights and interests of consumers in their dealings with businesses, by setting out a range of provisions to regulate the relationship between consumers and businesses, with a focus on ensuring fair and transparent dealings, protecting consumer health and safety, and providing mechanisms for resolving disputes between consumers and businesses.
- The key provisions of consumer protection rules in Hungary include the requirement for businesses to provide clear and accurate information about the products and services they offer, the obligation to ensure that products are of satisfactory quality and safe for use, and the right of consumers to receive compensation in the event of a defective product. The rules also establishes a number of consumer protection organizations and agencies that work to enforce these provisions and provide assistance to consumers. In the event of a dispute between a consumer and a business, the several avenues for resolution are offered, including mediation, as well as the right to bring a complaint to a consumer protection agency. Consumers also have the right to take legal action against businesses that violate their rights under consumer protection law.
- Act XLVIII of 2008 on Essential Conditions of and Certain Limitations to Business Advertising Activity (the "Advertising Act"), which sets out the basic requirements of advertisements as well as including essential provisions of direct marketing activities;
- Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (the "Competition Act"), which mostly covers business-to-business relationships;
- Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices towards Consumers (the "UCP Act"), which includes the basic prohibition of unfair commercial practices towards consumers, including the so called "black-listed" practices that have to be deemed as unfair;
- Act V of 2013 on the Civil Code (the "Civil Code") provides additional legal protection for consumers in Hungary and establishes the rights and obligations of parties in contractual relationships, particularly in case of the application of general terms. It also sets out the rules for the protection of consumer health and safety, as well as the right to compensation in the event of a defective product;
- Government Decree no. 45/2014 (II.26.) on the detailed rules of business to consumer contracts includes special rights granted to consumers in contractual relationships; including special rules for contracts concluded outside of business premises at a distance (for example in webshops);
- Act CVIII of 2001 on Electronic Commerce Services Act, which governs the provision of electronic commerce services in Hungary and provides additional legal protections for consumers in online transactions. It sets out the obligations of service providers and establishes the rights of consumers with regards to online purchases;
- Government Decree no. 373/2021. (VI. 30.) on the detailed rules for contracts between consumers and businesses for the sale of goods, supply of digital content and provision of digital services, which includes specific rules regarding contracts on digital services between businesses and consumers.

To comply with the EU regulations, as of January 1 2025. the National Authority for Trade and Consumer Protection ("NATCP"; in Hungarian "Nemzeti Kereskedelmi és Fogyasztóvédelmi Hatóság or "NKFH")) had been brought to life. NATCP took over some functions from the Ministry of National Economy. Among others NATCP is going to be responsible for:

- consumer protection and market surveillance tasks, as well as for monitoring the safety of products;
- laboratory tests required to carry out food trade, consumer protection, and market surveillance tasks;
- preparing inspection and examination programs for government offices;
- operating the central sample transportation system;
- ordering ad hoc examinations.

TERMS OF SERVICE

In Hungary, the enforceability of online terms of service is governed by the Civil Code and the specific government decrees mentioned in Section 7 above. To be enforceable, online terms of service must be in compliance with Hungarian consumer protection laws and must not violate the rights of consumers.

Some provisions that cannot be included in online terms of service in Hungary include:

- **Unfair Terms:** Online terms of service cannot contain provisions that are considered unfair to consumers, such as excessive unilateral termination clauses, or provisions that allow the service provider to change the terms of the agreement without prior notice.
- **Unlawful Clauses:** Online terms of service cannot contain provisions that are illegal or contrary to public policy, such as clauses that restrict the right of consumers to take legal action.
- **Hidden Clauses:** Online terms of service must be clear and easily accessible to consumers. Provisions that are hidden or not easily understandable are not enforceable.
- **Imbalanced Contracts:** Online terms of service cannot be one-sided, or give undue advantage to the service provider. Contracts must be balanced and provide protection for both consumers and service providers.

Online terms of services must also include certain information to be enforceable in Hungary, such as the identity of the service provider, the scope of the services offered, and the conditions of termination of the agreement, and dispute resolution mechanisms, with special attention to the right of withdrawal of the consumers.

TAX/FUNDING

Tax Overview

In Hungary, startups typically operate as limited liability companies or private limited companies, making corporate income tax (CIT) the primary tax consideration. The corporate tax rate is a flat 9%. Additionally, companies must consider the local business tax (in Hungarian "HIPA"), imposed by municipalities, which generally ranges between 0% and 2% of net sales revenues (less COGS, subcontractor fees, mediated services, R&D costs and material cost)

There is also a so-called small business tax (in Hungarian: "kisvállalati adó") which has a flat rate of 10% to be paid on personnel costs and not profits, but three tax payment obligations (including corporate income tax) are covered by this 10%. This taxation method is allowed if certain thresholds are not exceeded. This taxation form is worth utilizing if the company is looking to develop and grow its business and would rather reinvest the profits than to pay them as dividend in the first few years.

Companies registered in Hungary are taxed on their worldwide income. However, double taxation treaties can reduce or eliminate taxes on foreign-earned income. For foreign-based companies, a Hungarian corporate tax obligation generally arises if the company establishes a permanent establishment in Hungary and conducts business activities there.

Other key tax obligations include value-added tax (VAT), with a standard rate of 27%. In certain cases, a reduced 5% or 18% VAT rate may apply. Businesses must also pay attention to VAT registration requirements, especially when engaging in cross-border transactions.

TAX/FUNDING, CONT'D

Taxation of Capital Contributions

When a company receives a capital contribution, such as through a capital increase executed by owners or investors, tax and accounting regulations must be considered. Capital increases can occur through monetary or non-monetary contributions (also known as in-kind contributions).

- **Monetary contributions:** Investors provide cash to the company, which is used to increase the registered capital or capital reserve. This transaction does not typically trigger an immediate tax liability for the company.
- • **Non-monetary contributions (in-kind):** These can include tangible assets, real estate, or intellectual property (IP). Notably, from 2025 onward, when an individual contributes intellectual property as capital into a company, the transaction will be exempt from personal income tax up to the value specified in the company's founding document.

Companies must also comply with accounting regulations and maintain adequate equity levels. If a company's equity falls below the legally required minimum, corrective measures such as capital increase or capital reduction must be taken.

Tax Obligations for Employer Share Plans

Employers frequently use stock-based compensation plans to incentivize employees. The taxation of these benefits depends on the structure and conditions of the share awards.

Free or discounted share awards: When an employee receives shares for free or at a discounted price, the difference between the fair market value and the amount paid is considered employment income. This income is subject to:

- 15% personal income tax (PIT);
- 18.5% social security contribution (SSC); and
- 13% social contribution tax (in Hungarian "SZOCHO") for the employer.

If shares are received from a non-Hungarian company, the income will be subject to:

- 15% personal income tax (PIT)
- 13% social contribution tax (in Hungarian "SZOCHO")
- The taxable amount is calculated as 89% of the benefit's value, as per Hungarian PIT law.

Stock options: The tax obligation must be assessed both at the time of granting and exercising the option. If the option has a market value and is transferable, it may be subject to taxation upon granting. Upon exercise, the difference between the market price and the exercise price is considered taxable income, subject to the same PIT and social contribution tax rules.

Given the complexity of stock-based compensation taxation, it is advisable for companies and employees to seek professional tax advice to ensure compliance with all relevant regulations.

TAX/FUNDING, CONT'D

Tax Incentives

The Hungarian tax system offers various incentives for startup investors, significantly encouraging investments in innovative businesses. One of the most important incentives is the corporate tax benefit available for investments in early-stage enterprises. This benefit allows investor companies to claim a tax base reduction if they acquire a stake in a startup. The extent of the incentive is substantial: three times the acquisition value of the stake in an early-stage business—including any capital increase following the acquisition—can be deducted from the tax base over four tax years, in equal installments. However, the deduction is capped at HUF 20 million per tax year and per early-stage business. This means that an investor can achieve up to HUF 80 million in tax base reduction over four years, providing a significant incentive for financing the startup ecosystem.

Additionally, the development tax incentive plays a crucial role in stimulating investments. This benefit targets larger-scale investments and allows for a reduction of up to 80% of corporate tax liabilities. To qualify, the investment must reach a minimum value of HUF 100 million. This incentive is particularly attractive for investors planning substantial capital investments in promising startup ventures.

The preferential taxation of intellectual property (IP) assets is another key feature of the Hungarian tax system, offering notable advantages for innovative startups based on intellectual property. Under this scheme, qualifying royalty income is subject to a highly favorable 4.5% corporate tax rate, instead of the standard 9% rate. This tax benefit significantly enhances the appeal of startups whose business model relies heavily on intellectual property rights. Furthermore, royalty income is fully exempt from local business tax, providing additional financial advantages for companies that commercialize intellectual property assets. This incentive is particularly attractive for startups developing and selling software, patents, and other intellectual property-based products.

It is important to note that these tax incentives are not limited to domestic investors but may also be available to foreign investors, contributing to the international attractiveness of Hungary's startup ecosystem. As the tax incentive system continues to evolve, investors should stay informed about the latest developments and consider seeking advice from tax professionals to maximize the benefits available.

Additionally, managers and employees of "start-up" company can acquire shares in the company in a personal income tax-free manner since January 1, 2024. The tax exemption also applies to options: the acquisition of shares through the exercise of a right of option where the employee or manager was granted a right of option when the company was a start-up will also be tax exempt. The exemption applies only if the share or option is not sold for at least three years from the acquisition thereof. In the context of this exemption, the start-up companies are unlisted micro and small enterprises that have been registered for five years or less, and have not yet distributed profits and have not been established by way of merger or division.

Funding/Incentive Programs

In Hungary, numerous state and EU-funded support and tax incentive programs are available for startups. Some of these specifically target players in the technology and innovation sectors.

The National Research, Development and Innovation Office (NRDI Office) plays a crucial role in supporting startups. They manage several programs aimed at encouraging private capital participation and have launched incubator programs he NRDI Office also coordinates the work of National Contact Points (NCPs) for Horizon Europe, providing free support to potential applicants, including startups. Further information can be found at the following website: https://nkfih.gov.hu/palyazoknak.

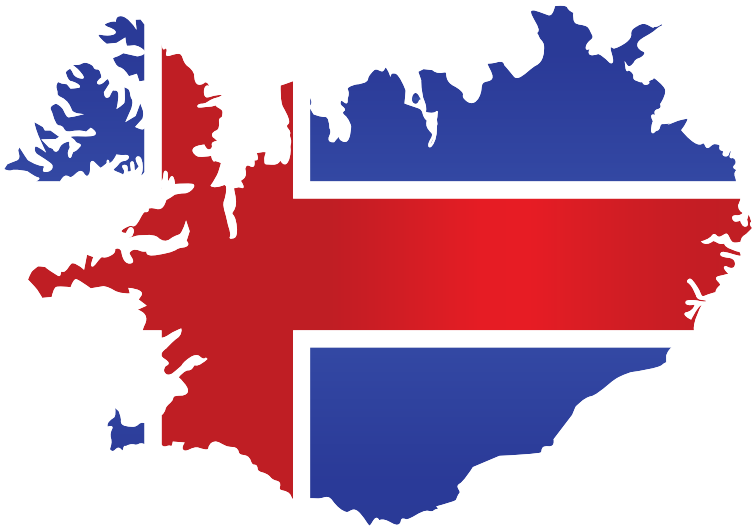
The Hungarian Innovation Agency (HIA) is another key player, running programs to help SMEs succeed in domestic and Horizon applications, providing technology assessment services, and organizing foreign market entry programs for startups. Further information can be found at the following website: https://niu.hu/.

In addition to the above, various grant opportunities are available under the GINOP (Economic Development and Innovation Operational Program) for start-up businesses. These grants aim to support technological developments, increase employment, and facilitate market entry. Further information can be found at the following website: https://www.palyazat.gov.hu/.

WHAT ELSE?

There are several things that a foreign entity should be aware of before entering the Hungarian market:

- **Language Requirements:** Hungarian law requires that certain contracts in certain circumstances, such as employment contracts and consumer contracts, be written in the Hungarian language. Foreign entities should be aware of this requirement and should take steps to ensure that their contracts are translated into Hungarian, if necessary.
- **Regulatory requirements in respect of commencing or performing certain business activity in Hungary:** For commencing or performing certain activities the establishment of a legal entity (branch or subsidiary, see more in Q2) may be necessary in Hungary. The contemplated activities need to be identified with the NACE Rev2.0 codes for corporate law purposes. Certain activities may only be performed if the entity holds a license or reported its activity to a relevant authority in advance of commencement (such as financial services, construction, etc.) to avoid potential administrative and criminal sanctions of unauthorized activity. Usually such license application requires the introduction of statutory personnel and material conditions, general terms and capital required for the sustainable operation.
- **Taxation:** Foreign entities who are not required to create a permanent establishment in Hungary for cross border operation, should still be aware of the tax laws and regulations in Hungary, including the corporate tax rate, value-added tax (VAT) rules, and rules regarding the withholding of taxes on income received from Hungarian sources. To certain activities a local VAT agent may be necessary and in any event double tax treaties need to be visited.
- **ESG rules:** The Hungarian ESG Act introduced several obligations related to sustainability due diligence and sustainability reporting in respected of undertakings meeting certain conditions. Nevertheless, small and medium businesses ("**SMEs**") are subject to ESG obligations only, if they qualify as an undertaking of public interest (in particular the listed SMEs). In case of the above-mentioned SMEs, the first ESG report to be prepared in 2027 in respect of the business activity of 2026.
- **Cybersecurity:** The Hungarian cybersecurity law is an EU-aligned, risk-based compliance system with mandatory security measures, incident reporting, and strong regulatory oversight. Most micro and small enterprises are not directly subject to the Act due to their size; but start-ups and SMEs within certain critical sectors specified by the Hungarian Cybersecurity Act (such as electronic communications service provider, trust service provider, DNS service provider, top-level domain name registrar, or domain name registration service provider) are recommended to check the applicable rules before entering Hungary as they most probably fall under Cybersecurity obligations.
- **Accounting and payment of taxes in foreign currency:** The Accounting Act allows businesses to keep their accounts in EUR or US dollars. In addition, in certain cases, they may choose other currencies if the functional currency in the economic environment of the company's business activity is that currency. Further, corporate tax and local business tax can be also paid in foreign currency.
- **Alternative funding techniques:** The Hungarian angel and VC funding market more frequently applies SAFE funding based on the Combinator model documentation. At the end of 2025 the Hungarian Venture Capital Association and Start-up Hungary introduced a model document template platform Model Documents - HVCA - Hungarian Venture Capital and Private Equity Association / Legal Library which proposes a market standard in Hungary to use this quasi equity financing with the joint effort of market leading law firms in the Hungarian M&A market. HVCA is still working on finding crystal clear responses on the accounting background, but as a minimum safeguard the convertible loan rules give a good start for safe financing to angel investors as well. For venture capital funds the underlying regulatory regime provides statutory background for SAFE financing.



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LEGAL FOUNDATIONS

Iceland follows the **civil law system**. It relies on written statutes and other legal codes which are frequently updated. Iceland does not have multiple jurisdictional layers with different legislation, i.e. all legislation applies on the federal level.

There are three judicial levels in Iceland. The lowest judicial level, or first instance, is the District Courts, of which there are eight throughout Iceland which operate in separate districts. Subject to certain conditions, the conclusions by the district courts may be appealed to a higher judicial level, the Appeal Court. Subject to stricter conditions, decisions of the Appeal Court may be appealed to the highest level, the Supreme Court, whose conclusions are final.

Decisions of the Icelandic Supreme Court and the Appeal Court are often heavily relied on as precedent in interpreting legal provisions. In general, the district courts do consider precedents in their decisions.

Icelandic legal system is a civil law system and in particular, can be characterized as being a part of Scandinavian law. That is, a system in which statutory provisions are the main sources of law but legal interpretation relies heavily on Supreme Court/Appeal Court precedent and preparatory works.

CORPORATE STRUCTURES

The most common corporate structures in Iceland are limited companies. Other pertinent structures are partnerships, cooperative societies, sole proprietorship, and branches of foreign limited companies.

There are two types of limited companies in Iceland, public and private, regulated by two separate Acts. These Acts are in line with the requirements of the company law provisions of the EEA agreement. These structures offer the benefit of limited liability, while partnerships entail full and unlimited liability for all partners. It should be noted that foreign public or private limited companies and companies in a corresponding legal form having legal domicile within the European Economic Area may engage in activities with the operation of a branch in Iceland. Limited companies and companies in a corresponding legal form domiciled outside the European Economic Area may operate a branch in Iceland, if this is permitted in an international treaty to which Iceland is a party or by the Minister of Commerce. Limited companies and branches are registered with the Internal Revenue's Register of Enterprises division (Icel. Fyrirtækjaskrá).

CORPORATE STRUCTURES, CONT'D

A public limited company must have an initial capital of at least ISK 4.000.000 and a private limited company at least ISK 500.000. No limits are set on the number of shareholders for private limited companies, whilst shareholders must be at least two in a public limited company. When a limited company is established a memorandum of association must be prepared containing, inter alia, a draft of articles of association, names and addresses of founders, subscription price of the shares and deadline for subscription and payment of subscribed capital. The draft of articles must contain information including the name and location of the company, its objectives, share capital, board of directors, legal venue, auditors, and financial year. Moreover, information on beneficial owners must be submitted. The articles of association are adopted by the shareholders at the first general meeting and the company must be registered with the Register of Limited Companies within six months of the date of the memorandum of association in the case of a public limited company or two months in the case of a private limited company. An unregistered company can neither acquire rights nor assume duties.

To register a new public limited company, one must pay a registration fee of ISK 276.500. To register a new private limited company, one must pay a fee of ISK 140.500. A public limited company must have at least two founders, at least one of whom must reside in Iceland or be a resident and a citizen of an EEA or OECD country. A private limited company may be founded by one or more parties. At least one entity must reside in Iceland or be both a citizen and resident of an EEA or OECD country.

A public limited company must have a board of directors consisting of at least three persons and must appoint at least one managing director. The managing director(s) and at least half of the members of the board must reside in Iceland or be residents and citizens of any other EEA or OECD country, but an exemption may be granted by the Minister of Culture and Commerce. A private limited company shall have one or two persons on its board of directors if it has four shareholders or fewer; otherwise, the minimum is three persons. One or more managing directors may be appointed by the board, and if there is only one person on the board of directors he may also serve as managing director. The managing director(s) and at least half of the members of the board must reside in Iceland or be residents and citizens of any other EEA or OECD country, but an exemption may be granted by the Minister of Culture and Commerce. If there is only one person on the board of directors, he must fulfil the residence qualification.

Given the increased requirements for establishing and operating a public limited company, we generally advise our clients in the startup field to establish a private limited company, which can then be converted into a public limited company at a later date, if need be.

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ENTERING THE COUNTRY

Icelandic legislation contains restrictions pertaining to the acquisition of real property rights, namely Act No. 19/1966 on the Right of Ownership and Use of Real Property and Act No. 81/2004 on Farmland, which both set out certain requirements for acquiring real property rights. The general principle under Act No. 19/1966 is that Icelandic nationals and foreign nationals domiciled in Iceland may own property in the country or acquire the rights to its use. However, legal entities must satisfy certain requirements to own real estate in Iceland, cf. Article 1 of the Act. It should be noted that the Minister of Justice may grant a permit of exemption from the conditions listed in the aforementioned Article, e.g. if a person or company must acquire a property or property rights for use in their business, or if a foreign national has a strong connection with Iceland or an Icelandic national. However, a permit does not need to be obtained when the person concerned enjoys rights in Iceland according to the rules of the EEA Agreement or equivalent provisions in the Treaty establishing the European Free Trade Association or the Agreement between the Government of Iceland and the Government of Denmark and the Home Rule Government of the Faroe Islands.

This is further expounded upon in Regulation No. 702/2002, which states that companies, as well as other legal entities, which are established in accordance with legislation in a EEA or EFTA member state and have established or intend to establish a branch or representative office or intend to carry out service activities in Iceland, can obtain authorization for real estate in Iceland on the basis of the rules on right of confirmation and service activities, without applying for an exemption to the Minister of Justice. Such companies shall either have their headquarters or main operations in an EEA or EFTA country or have a residence there according to their articles of association. In order for the above to apply, the pertinent property must be essential to the planned activities in Iceland. Moreover, notarization of a document on authority over real estate on the basis of this exemption is subject to the beneficiary submitting a statement stating that he or the company falls under the exemption.

Act No. 34/1991 on Foreign Investment in Business sets out multiple rules concerning foreign investment, specifically with regards to domestically important industries, i.e., the fishing industry, aviation operations and power production. As per the Act, foreign parties are generally allowed to invest in Iceland, within the limitations set by law, cf. Article 3. Some of these limitations are subsequently listed in Article 4(1) of the Act. It should be mentioned that Article 12 of Act No. 34/1991 allows the Minister of Culture and Commerce to intervene in foreign investment that threaten the security of the country or those that are contrary to public policy, public security, or public health, or if serious economic, social or environmental difficulties arise in specific industries or in specific areas that are likely to persist. The Article also allows the Minister to intervene in foreign investment in systemically important companies when such investment involves systemic risk. It should be noted that any use of this measure must comply with Iceland's international obligations, i.e. those imposed by the EEA Agreement.

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INTELLECTUAL PROPERTY

Trademarks

What is protectable? Trademarks can be any type of sign, incl. words (incl. human names), pictures, patterns, letters, numbers, colors, sounds and shape or packaging of a product, as long as they distinguish the goods and services of the company from those of other companies. Further, to obtain registration, a trademark may not be descriptive of the goods or service or be confusingly similar to another trademark already registered in the same or similar categories.

Where to apply? Trademarks can be filed either with (i) the Icelandic Intellectual Property Office (ISIPO) or (ii) the World Intellectual Property Organization (WIPO) under the Madrid System. The application of an Icelandic trademark can be easily filed via an online form on the ISIPO website. The ISIPO will then conduct a trademark search and assess if the application meets all requirements. The procedure usually takes 8-10 weeks and if no amendments are necessary, the trademark is published in the ISIPO IP Gazette. After the publication in the Gazette, the registration can be opposed within two months. After the registration and opposition period ends, it is possible to request that the registration of the mark be cancelled, if the conditions for cancellation are met. Anyone can oppose or request cancellation of a trademark.

Duration of protection? A trademark registration is valid for 10 years from application date. Subject to certain conditions, the trade mark can be revoked by a court judgment or decision of the ISIPO if the owner of the trademark has not used it within 5 years of its registration.

Costs? Application and renewal costs for an Icelandic trademark for one class amounts to ISK 40.600 (ISK 8.900 charged per additional class). In addition and if applicable, fees of a legal representation apply.

Patents

What is protectable? Technical inventions are patentable. An invention must be novel at the date of application, have an inventive step not obvious to a skilled professional and be applicable in the industry.

Where to apply? Patent protection is granted per country only, so an applicant must register the patent in each country where protection is sought. A Patent application can be filed directly with the ISIPO to obtain patent protection in Iceland.
A patent application can also be filed with the European Patent Office (EPO) to obtain a European Patent. The European Patent can then be validated in each of the EPC contracting states, including Iceland. An application for a validation in Iceland is filed with the ISIPO and must, before validation of the patent, be accompanied by an Icelandic translation of the claims.

Please note that Iceland is not a party to the European Unitary Patent system.

Duration of protection? A patent can be maintained up to 20 years from application, by paying annual fees. In case of pharmaceutical inventions, it is possible to apply for supplementary patent protection which may entail an additional protection period of maximum 5,5 years.

Costs? Application cost for an Icelandic patent for up to ten claims is ISK 76.000, for each additional claim ISK 4.900 is added. Further, annual fees range from ISK 13.000 to ISK 111.000, depending on how many years the patent has been valid. The official fees to validate a European Patent is ISK 43.000. In addition, translation cost and fees of a legal representation apply.

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INTELLECTUAL PROPERTY

Designs

What is protectable? A Design registration protects the design of a product of part of a product, i.e. shape, colors, pattern etc. The design must be new and different from what already exists.

Where to apply? National designs may be registered with the ISIPO. Design cannot be protected solely on the basis of use, but copyright may apply in some cases.

Duration of protection? The term of protection is five years. The term may be renewed for five years at a time, up to a maximum term of 25 years.

Costs? Application costs for designs amount to ISK 24.000 for each five-year term, plus an additional fee of ISK 6.000 for each additional design in a joined application. The renewal fee for each design for each five-year period is ISK 43.000.

Copyright

What is protectable? Copyright is a protection under the Icelandic Copyright Act No. 73/1972 that is established when an intellectual creation, such as literary work or artistic work, is created. No registration or label is required.

Duration of protection? Copyright protection ends at the end of the 70th year after the author has passed away.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work. The author is also entitled to a right of attribution and a right to object to derogatory treatment. The author may however transfer or license the right to exploit the copyright financially.

Trade Secrets

What is protectable? Trade secrets are protected by specific legislation, Act No. 131/2020 on Trade Secrets. Accordingly, trade secrets are protected against illegitimate acquisition, use and disclosure. Trade Secrets are legally defined in Act No. 131/2020 as information which:

- is secret in the sense that it is not, as a whole or in conjunction or combination of individual components, generally known or easily accessible among persons in groups which normally deal with the type of information in question,
- has commercial value because it is secret,
- an individual or legal person possesses legally and has made reasonable efforts, as applicable in each case, to maintain secrecy.

Duration of protection? Protection for trade secrets lasts as long as the above conditions are fulfilled.

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DATA PROTECTION/PRIVACY

The General Data Protection Regulation, Regulation (EU) 2016/679 (**„GDPR"**) was incorporated in the EEA Agreement by a Joint Committee Decision dated July 6, 2018. The Icelandic Act No. 90/2018 on Data Protection and the processing of Personal Data (**„the DPA"**) implements the GDPR in Iceland. The law contains derogations and exemptions from the position under the GDPR in certain permitted areas. The most important provisions which include a country specific implementation are inter alia the following:

- designation of the **Icelandic Data Protection Authority (Icel. Persónuvernd)** as the competent supervisory authority.
- **specific rules on lawful processing**, which include freedom of expression and research exemptions (Articles 6 and 18 of the DPA)
- **age of consent** for children for online services is 13 years (Article 10(5) DPA)
- **restrictions on the right of access**, permitting limitations with respect to personal data contained in internal working documents used in the preparation of decisions by the controller, where such documents have not been disclosed to others, to the extent necessary to safeguard the preparation of the matter (Article 17(5) DPA)
- **prior authorisation requirements** for processing of personal data carried out in the public interest where the processing may involve a specific risk to the rights and freedoms of data subjects, allowing the Icelandic Data Protection Authority to require that such processing be examined and approved before it may commence, with the possibility for the authority to waive the authorisation requirement once general rules and secuirty standards have been established
- the Icelandic Data Protection Authority, may impose **administrative fines** on any controller or processor that violates any of the provisions of the GDPR and DPA, inclusive of public bodies (Article 46 DPA)
- rules on the use of a **national identification number** is permitted if it serves a legitimate purpose and is necessary to ensure secure personal identification. Persónuvernd may prohibit or order the use of an identification number (Article 13 DPA)
- rules on **electronic monitoring**, which must serve an objective purpose and, in areas accessed by a limited group of individuals, be specifically necessary due to the natue of the activities carried out there (Article 14 DPA)

Transfer of Personal Data

Transfers of personal data within the EU/EEA are permitted without additional requirements. Transfers to countries outside the EU/EEA are permitted only where adequate safeguards are in place, including:

- **Adequacy decision** (Article 45 GDPR): Transfers to countries recognized by the European Commission as providing an adequate level of protection are permitted without additional safeguards (e.g. Andorra, Japan, Switzerland, the UK and the USA (commercial organizations participating in the EU-US Data Privacy Framework))
- **Appropriate safeguards** (Article 46 GDPR): such as Standard Contractual Clauses (SCCs), Binding Corporate Rules (BCRs), or approved codes of conduct or certification mechanisms.
- **Derogations** (Article 49 GDPR): Limited exceptions (and used as a last resort), including explicit consent, necessity for contract performance or important reasons of public interest.

Following the judgment of the Court of Justice of the European Union in Case C-311/18 (Schrems II), organisations transferring personal data to non-EEA/EU countries that have not been recognised by the European Commission as providing an adequate level of protection must ensure that the recipient country offers a level of data protection essentially equivalent to that of the EEA/EU. In such cases, the use of appropriate safeguards, such as Standard Contractual Clauses (SCCs), may not in itself be sufficient, particularly where the recipient country has intrusive surveillance laws. Where necessary to address identified risks, controllers must implement supplementary technical and organizational measures, such as encryption and access controls. It is therefore recommended that a Transfer Impact Assessment be conducted to evaluate the legal and regulatory environment in the third country prior to the data transfer. It should be noted that Icelandic data protection authorities interpret and apply the Icelandic Data Protection Act in line with the EU's interpretation of the GDPR. Accordingly, this judgment is relevant with regard to transfer of personal data of individuals in Iceland.

DATA PROTECTION/PRIVACY, CONT'D

Tracking Technologies

Article 88(1) of the Telecommunications Act No. 70/2022 regulates the use of tracking technologies (such as cookies) that store or access information on a user's device or monitor user activity. As a general rule, the use of such technologies is prohibited unless the user has given informed consent or the use is explicitly authorised by law. Informed consent requires that the user has received the information mandated under data protection legislation prior to consent being obtained.

A narrow exemption applies where the use of tracking technologies is strictly necessary for a legitimate purpose and carried out with the user's knowledge. This exemption is limited to (i) technical storage or access solely required to transmit communications over a network to ensure basic functionality of a service and (ii) storage or access that is strictly necessary to provide a specific service explicitly requested by the user. Any use beyond what is technically necessary, such as for convenience, analytics or other secondary purposes requires prior informed consent.

Marketing Emails

Unsolicited electronic direct marketing (e.g. by email or similar electronic means) is permitted only where the recipient has given prior informed consent (opt-in), cf. Article 94(1) of the Telecommunications Act No. 70/2022 (**"TA"**). Such consent must meet the requirements of the Icelandic Data Protection Act.

An exception applies to the marketing of the sender's own products or services to existing customers. In such cases, marketing emails may be sent without prior consent provided the customer is given a clear and free opportunity to object (opt-out) both at the time of collection of the email address and in each subsequent message (unless the customer has already refused such use), cf. Article 94(2) TA.

ARTIFICIAL INTELLIGENCE

A specific national regulatory regime for AI does not exist in Iceland. However, Regulation (EU) 2024/1689 on harmonized rules on artificial intelligence (the socalled AI Act) is now being scrutinized by the EEA Joint Committee and is likely to be implemented in Iceland in the coming years.

Currently, the principles of data protection law, in particular Art 22 GDPR on automated individual decision-making must be observed in relation to the development, testing and operation of AI. Thus, the use of AI must not lead to any legal or similarly serious effects to the data subject, without any human intervention.

Also, national copyright restrictions are particularly relevant for generative AI. This applies to both (i) the input data (such as web scraping) and (ii) the output of the specific AI application: The retrieval of data from the internet into set of training data may be considered exploiting the content in a way subject to the Icelandic Copyright Act. Currently Iceland has not implemented the provision of the EU Directive 2019/790 on copyright and related rights in the Digital Singe Market (so called DSM directive) as the process of incorporation into the EEA Agreement is pending. It therefore may be expected that the so-called Text- & Data-Mining exceptions will allow such retrieval in the near future under the conditions laid down in the directive.

Finally, the output of AI may infringe the rights of the author of the original if the output is identical to or resembles an original source.

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EMPLOYEES/CONTRACTORS

General: Employer and employee must conclude an employment agreement, which stipulates their rights and obligations set forth by mandatory law, collective bargaining agreements and the employee agreement. The collective bargaining agreement applicable to the employee´s position will govern the minimum wages and terms that can be negotiated in an employee agreement.

Works created in the course of employment: According to unwritten principles of copyright law the copyrights necessary for the employer in the operations for which the copyrighted work was created will be transferred to him. The transfer of rights to computer programs is specifically mentioned in the Copyright Act No. 73/1972 in accordance with Directive 2009/24/EC on Computer Programs. According to the Act on Employees´ Inventions, the employer is entitled to acquire the rights to patentable inventions created by employees in the course of the employment. However, to avoid disputes, it is advisable to conclude an agreement between the employer and employees on ownership of IP rights that will be created during the term of employee agreements.

Registration at the Employer´s Registry, employee benefits and employer´s payments: Every employer must register employees with the Iceland Revenue and Customs. The employer shall also pay to the Iceland Revenue and Customs a source deduction payment monthly together with a social insurance fee. Furthermore, the Employer is obliged to pay certain amounts into the employee´s pension fund together with payments to holiday benefit and sickness funds. Employees are entitled to annual leave benefits which amount to at least 10,17% of the salary. At the birth, an adoption or a fostering of a child each of the parents is entitled to six months payments from a state operated fund.

Termination: Notice periods for termination of an employment contract by either of the parties are designated in collective bargaining agreements and in the legislation. In general, the employer does not have to specify a reason for termination. However, certain groups of employees (e.g. work council members, pregnant employees, employees on parental leave or with recognized disability status) enjoy special termination protection.

Contractors: A company may also hire workers on a contractor basis, usually to perform specific tasks and/or within a pre-determined time frame. Contractors decide when and how they perform their tasks even if they receive instructions on where the task must be performed from the buyer and within which time period, they use their own equipment and are entitled to delegate their tasks. Contractors are not entitled to wages from the buyer company in case of illness or accident, matching contribution to pension funds, accident insurance or holiday leave. Contractors must themselves account for various wage- and operation-related taxes and charges under the relevant law.

The Icelandic Tax Authorities frequently examine whether a contractor agreement is really an employment contract and have the authority to reassess companies' taxes if they determine that an employment contract has been set up as a contractor arrangement to circumvent taxes and other obligations. They may, for example, examine whether the buyer company/employer has deciding power on planning the performance of the worker's work, pays wages on a regular basis regardless of the progress of work, lists minimum working hours in the contract, makes reference to employment related rights and a notice period of termination.

CONSUMER PROTECTION

Icelandic consumer protection legislation is regulated by various Acts, such as Act No. 30/2002 on E-commerce, Act No. 57/2005 on the Surveillance of Unfair Business Practices and Market Transparency, Act No. 16/2016 on Consumer Agreements and Act No. 33/2013 on Consumer Loans.

Foreign entities not established in Iceland offering their products and/or services to Icelandic consumers must be mindful of consumer protection legislation in Iceland as some Acts apply to foreign service providers irrespective of whether they are established in Iceland or not. Following is a brief overview of the geographic scope of the most relevant Acts in this respect:

The Consumer Agreement Act applies if an agreement is concluded outside a permanent establishment but is directed towards Icelandic consumers or if the seller's marketing is otherwise conducted in Iceland or in Icelandic, irrespective of whether the seller is established in Iceland.

The Unfair Business Practices Act applies to agreements, terms or conduct meant to have effect in Iceland.

The Consumer Loans Act (and Icelandic legislation in general) applies to a loan agreement concluded by a consumer which is a resident in Iceland even if the counterparty is a foreign entity, if:

- the precursor to the agreement was a specific offer made to the consumer or a general advertisement and the necessary arrangements to conclude the agreement on behalf of the consumer were performed in Iceland,
- the counterparty, or its agent, took the consumer's order in Iceland,
- the agreement concerns the sale of a product and the consumer travelled from Iceland to another country and placed their order there, provided that the trip was planned by the seller in order to entice the consumer to conclude the agreement.

The E-commerce Act applies to all electronic service providers established in Iceland, irrespective of whether the service is directed to the Icelandic market or to foreign markets.

Other Acts on consumer protection in Iceland include Act no. 48/2003 on Consumer Purchases, Act no. 25/1991 on Tort Liability for Product Defects and Act No. 50/2000 on the Purchase of Liquid Assets.

In case of distance sale agreements, such as in online stores, various information obligations must be adhered to in accordance with the Consumer Agreement Act. Further, a consumer must have a right to withdraw or rescind from any agreement within 14 days by simple notification. This right can only be limited in certain circumstances.

Specific attention is drawn to the requirement of the Unfair Business Practices Act that advertisements directed to Icelandic consumers must be in Icelandic. Further, advertisements must be presented in a way that there is no doubt that they are advertisements and clearly distinguished from other media content.

The Icelandic Consumer Agency, Neytendastofa, is the competent supervisory authority, see Act No. 62/2005 on the Consumer Agency. It has authority to investigate and impose fines on companies for breaches of provisions of the Unfair Business Practices Act and other Acts regulating consumer protection, including those listed above. The Consumer Agency can investigate potential breaches on its own initiative or by complaint from individuals or companies. It is very consumer-focused and therefore prioritizes addressing unilateral conduct which may affect consumers negatively, such as unfair business practices towards consumers, advertising claims and insufficient labelling.

ICELAND

TERMS OF SERVICE

The Consumer Agreements Act stipulates that it is not permissible to negotiate or offer terms which are less favorable to the consumer than would result from the Act. According to the Icelandic Contract Act No. 7/1936, an agreement may be deemed invalid in whole or in part if the terms are considered unfair towards the consumer or against good business practice.

According to the Consumer Agreements Act, if an agreement is concluded electronically, and includes an obligation for the consumer to pay, the seller shall in a clear and easily understood manner and right before the consumer places the order, bring his attention to information on the main characteristics, price, validity period of the agreement and the minimum binding time of the agreement. Further, the seller shall ensure that at the time of order, the consumer shall explicitly acknowledge that the order entails an obligation to pay. If an order is placed by activating a button or similar function, the button or function shall be marked in a legible manner only with unambiguous wording indicating that the order constitutes an obligation on the consumer to pay the seller. Failure to do so will entail that the consumer is not bound by the agreement or order.

TAX/FUNDING

Taxes

Corporate Income Tax: Income tax is levied on the income tax base of legal entities resident in Iceland, which is determined by the total worldwide income of resident companies, less any deductible expenses. The income tax rate varies depending on the type of company. Private and public limited companies (ehf. and hf.) are taxed 20% of their taxable income while other forms of corporation, such as partnerships (sf.) and cooperative societies (slhf.) are taxed at 37.6%.

Dividends: Individuals pay 22% tax on dividend payments, withheld at source. Non-resident legal entities are subject to 20% withholding tax from dividend payments. The rates can be reduced pursuant to the provisions in an applicable tax treaty. Reductions must be applied for with the Iceland Revenue and Customs (Skatturinn) before the dividends are paid. Otherwise, a refund of taxes paid can also be applied for.

Withholding Tax on Interest: Individuals pay 22% tax on interest, withheld at source. Non-resident individuals and legal entities are subject to 12% withholding tax on interest payments. The rates can be reduced pursuant to the provisions in an applicable tax treaty. Reductions must be applied for with the Iceland Revenue and Customs (Skatturinn) before the dividends are paid. Otherwise, a refund of taxes paid can also be applied for.

Withholding Tax on Royalties: Non-resident individuals and companies are liable to pay taxes on royalties paid from Icelandic sources, at a 22% rate, withheld at source. This also applies for sales profits for intellectual property.

Capital Gains Tax: Individuals pay 22% tax on capital gains. Non-resident legal entities are subject to 20% tax from capital gains. For companies registered in Iceland, general corporate income tax is levied on all profits, including capital gains. However, in the case of a disposal of shares by a corporate shareholder, a full deduction against such capital gains is permitted, which results in 0% taxation. This may also apply to the sale of shares in companies registered in Iceland sold by companies registered in the EEA or EFTA countries or the Faroe Islands. Finally, this can apply to capital gains from the sale of shares in non-resident companies, provided that the seller can demonstrate that the foreign company's profit has been taxed abroad under provisions that do not substantially deviate from those prevailing in Iceland and that the profits of the foreign company have been subject to taxation at a rate that is not lower than the general tax rate in any OECD, EEA or EFTA country or the Faroe Islands.

TAX/FUNDING, CONT'D

Funding

Other RANNÍS funds include:

- Icelandic Student Innovation Fund
- Artists' Salary Fund
- Children's Culture Fund of Iceland
- Deduction from the income of foreign experts
- Education Research Fund
- Educational Materials Developement Fund
- Gender Equality Fund
- Icelandic Climate Fund
- Icelandic Teaching for Foreigners
- Icelandic Youth Fund
- Independent Scholars' Salary Fund
- Infrastructure Fund
- Library Fund
- Music Fund
- Music Recording Fund
- Performing Arts Fund
- Preparatory Grants
- Research Fund of Sigrún Ástrós Sigurðardóttir and Haraldur Sigurðsson
- Retraining Teachers at Upper Secondary Level - SEF
- Sabbatical Fund for Teachers and Administrators at Upper Secondary Level
- Sprotasjóður: The Icelandic innovation fund for schools
- Support for the publication of books in Icelandic
- The Doctoral student fund of the Ministry for the Environment, Energy and Climate
- The Icelandic Sport Fund
- The Strategic Research and Development Program 2020-2023 Societal Challenges
- The Strategic Research and Development Programme for Language Technology
- Workplace Training Fund

A list of Icelandic Investment funds:

Nýsköpunarsjóður atvinnulífsins - https://www.nyskopun.is/
On 1 January 2025, two state run investment funds, NSA Ventures (Nýsköpunarsjóður atvinnulífsins) and Kría merged into the Kría Ventures Fund (Nýsköpunarsjóðurinn Kría) which is operated on basis of Act No. 90/2024 on the Kría Venture Fund. The aim of the fund is to enhance the supply of funding possibilities of start-ups and innovative businesses and to encourage private investors to participate in such funding.

- Alfa Framtak - https://www.alfaframtak.is/
- Brunnur Ventures - https://www.brunnurventures.com/
- Crowberry Capital - https://www.crowberrycapital.com/
- Eyrir Vöxtur (Eyrir Venture Management) - https://evm.is/funds/eyrir-voxtur/
- Frumtak Ventures - https://frumtak.is/
- Iceland Venture Studio ehf. - https://icelandventurestudio.com/
- Iðunn Venture Capital - https://www.kvikaeignastyring.is/framtakssjodir/yfirlit?tab=i%C3%B0unn
- Investa - https://www.investa.is/
- MGMT Ventures - https://www.mgmt.is/

TAX/FUNDING, CONT'D

Nýsköpunarsjóður atvinnulífsins (CONT'D) - https://www.nyskopun.is/

- Nefco – the Nordic Green Bank - https://www.nefco.int/financing/companies/vaxtarfjarmognun-fyrir-litil-og-medalstor-fyrirtaeki/
- Nordic Ignite - https://www.nordicignite.com/
- Novator - https://novator.lu/
- VEX - https://vex.is/

Other information:

- **Klak Icelandic Startups (https://klak.is/):** KLAK, which was founded in year 2000, helps entrepreneurs realize their ideas, increases the number of start-up companies based on ingenuity and thus increases sustainable value creation in Iceland. KLAK is a non-profit organization owned by the University of Iceland, the University of Reykjavík, Origo, the Business Innovation Fund and The Icelandic Federation of Industries. KLAK's mission is to expand and support the community of entrepreneurs in Iceland with the aim of increasing the number of start-ups. KLAK annually runs 3-4 business accelerators with different focuses, one of them the start-up idea competition Gulleggið. See:
- **KLAK - Business accelerators and workshops for entrepreneurs - https://klak.is/en/**
- **Scholarship calendar and list of investment funds - https://skapa.is/**
- **List of Icelandic Clusters - https://skapa.is/klasar**
- **Information on other tools for start ups - https://startuptools.org/is/**

WHAT ELSE?

Iceland is not a EU Member State, but it is a party to the EEA Agreement, cf Act No 2/1193 on the European Economic Area. Iceland is therefore a part of the European Economic Area and has in many areas of law implemented EU legislation.

With regard to cybersecurity, it shall be noted that Icelandic Act No. 78/2019 implements the EU NIS 1 Directive (Directive (EU) 2016/1148). Article 7 of the Act sets out minimum requirements for risk management and preparedness, including documented security policies, regular risk assessments, access controls, testing measures, and contingency planning to ensure the resilience of network and information systems. The EU NIS 2 Directive (Directive (EU) 2022/2555) has not yet been incorporated into the EEA Agreement and has therefore not been implemented into Icelandic law. Although preparatory work towards implementation has commenced, the timing of its adoption in Iceland remains uncertain.



INDIA

CONTRIBUTORS

INDIA
Gandhi & Associates
Vishal Gandhi

INDIA

LEGAL FOUNDATIONS

Common Law Structure
The general legal structure of India is a common law structure. The highest court in India is the Supreme Court of India (the "SC"). Judgments of the SC are binding on all the lower courts, i.e. the principle of stare decisis is followed.

Division of Powers under the Indian Constitution
The Constitution of India (the "Constitution"), inter alia, divides the legislative powers of the central and state governments. Under the Seventh Schedule of the Constitution, the power to legislate on matters such as incorporation, regulation and winding up of trading corporations, banking, insurance, stock exchanges, etc., is vested exclusively with the central government.

The state governments have the power to exclusively legislate on matters such as public health, hospitals, municipal corporations, public order, etc. And certain matters such as criminal law, transfer of property, charitable institutions, etc., can be legislated upon by both provided that no state law can be contrary to the provisions of a central law.

CORPORATE STRUCTURES

Private Limited Companies

Start-ups should consider setting-up a private limited company. The minimum number of shareholders required to form, and continue a private limited company are two. There is no minimum paid-up capital requirement for a private limited company but it does need two directors out of which one should be an Indian resident.

There are several benefits of conducting business as a private limited company in addition to the limited liability protection it provides to its founders and other shareholders. For example, a private limited company can:

- issue a special class of shares which is beyond the plain vanilla equity and preference shares which could facilitate venture capital and seed stage investments.
- can issue convertible notes, which is another instrument preferred and commonly used by early stage investors.
- can purchase its own shares and also provide loans and other financial support for the purchase of its own shares, which could facilitate exit options for early stage and other investors.
- There are no restrictions on managerial remuneration even if a company is loss making.
- The jurisprudence around private limited companies is also well established, and most investors are familiar with the legal and tax issues associated with such a vehicle.
- There is significant operational flexibility of doing business.

However, the limited downsides of doing business as a private limited company is that it may not be able to have all the tax benefits of a limited liability partnership.

CORPORATE STRUCTURES, CONT'D

Limited Liability Partnerships

A limited liability partnership ("LLP") may also be considered. An LLP is also a vehicle provides operational flexibility. In certain cases, depending on the specific business to be conducted, and specific sources of financing of the LLP, an LLP may be able to have a better tax treatment as compared to a private limited company discussed above.

However, one key shortcoming of an LLP is that in certain cases, the founders can be exposed to personal liability for non-compliance of the law. Since each LLP must have at least two designated partners, it is mostly the founders who tend to become designated partners in order to exercise control over the LLP. And a designated partner becomes liable for all penalties imposed on an LLP for contravention of statutory provisions of the Limited Liability Partnership Act, 2000. Further, in cases, for example, where an LLP or any partner or a designated partner of such limited liability partnership has conducted the affairs in a fraudulent manner, then in addition to any criminal action the concerned partner or designated partner would become liable to pay compensation to the affected person. Thus, it is not advisable to use an LLP structure unless and until based on the business plans and fact patterns, it may lead to a significant tax saving.

Other theoretical options

While in theory there are other options such as an unlisted public company, a one person company, sole proprietorships, and general partnerships, these not being relevant for start-ups especially where there is a foreign citizen or foreign resident being a founder, these are not being discussed here.

ENTERING THE COUNTRY

Foreign Investment Law

India has a dedicated foreign investment law. Any foreign investor investing into India must comply with the provisions of the Foreign Exchange Management Act, 1999 of India and the rules and regulations notified thereunder. Most sectors are open to 100% foreign ownership. However, certain sectors such as gambling and betting, lottery, real estate, rail way operations, etc., are prohibited. In the case of certain sectors such as ecommerce, foreign investment is permitted in the market place based model (subject to certain conditions and limitations) but not in a model where the start-up would own inventory and then sell it to consumers directly.

Any foreign investment must be reported to the Reserve Bank of India and must be made as per internationally acceptable valuation norms.

Investment by way of debt is restricted and subject to conditions. Investment by way of subscription to a nonconvertible debenture and/or a non-convertible preference share, would be considered as an investment in debt and not equity.

INDIA

INTELLECTUAL PROPERTY

India recognizes all kinds of intellectual property such as copyrights, patents, trademarks, trade secrets and designs. While there is no specific trade secret legislation, a trade secret is recognized by the Indian courts. Depending on the nature of the intellectual property, it may be registered with the Trade Marks Registry or the Copyright or Patent Office, etc.

Trademarks/Service marks

What is protectable? A mark including a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination of the aforesaid, which is capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others, is protectable.

Where to apply? An application for registration of a trade mark is filed with the Trade Marks Registry in India physically or by way of an electronic filing.

Duration? A trade mark/service mark is valid for ten years, and may be renewed from time to time.

Costs? Filing fees for start-ups is approximately US$60 per mark per class, and for non-start-ups is US$120 per mark per class.

Copyrights

What is protectable? Any original literary work including computer programmes, computer databases, tables and compilations, dramatic works, musical or artistic works; cinematographic films; and sound recordings are protectable.

Where to apply? An application for registration of a copyright is made to the Registrar of Copyrights physically or by way of an electronic filing.

Duration? A copyright, for most kinds of work is protected for sixty years from the beginning of the calendar year next following the year in which the author of the work dies.

Costs? The filing fees, depending on the nature of the work range from approximately US$6 per work to approximately US$24 per work.

International Treaties

It may be noted that India is also a signatory to the following international Madrid Protocol, the Berne Convention, the Paris Convention, and the Patent Co-operation Treaty, and thus one can take advantage of the such international treaties including priority dates of the applications filed in the reciprocating territories.

Patents

What is protectable? Any new product or process involving an inventive step and capable of industrial application is protectable.

Where to apply? An application for grant of a patent is filed with the Patent Office in India physically or by way of an electronic filing.

Duration? The term of a patent granted is twenty years from the date of filing of the application for the patent and in case of International applications filed under the Patent Cooperation Treaty designating India, it is twenty years from the international filing date accorded under the Patent Cooperation Treaty.

Costs? Filing fees for start-ups is approximately US$ 21 per application, and for non-start-ups is approximately US$ 106 per application.

Designs

What is protectable? Only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark or property mark or any artistic work under the Copyright Act.

Where to apply? An application for registration of a design can be filed with Design Wing of the Patent Office in Kolkata or any of the branches of the Patent Office in Mumbai, Delhi or Chennai.

Duration? A design is granted protection for 10 years from the date of registration and extendable by another 5 years.

Costs? Filing fees for start-ups is approximately US$12 per design, and for non-start-ups is approximately US$48 per design

DATA PROTECTION/PRIVACY

Existing Regime

India has rules relating to data protection and privacy notified under the provisions of the Information Technology Act, 2000. These, inter alia, govern the manner in which personal and sensitive information can be collected, disclosed transferred and used.

As per the **Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011**, a privacy policy must be published on the website of the entity collecting personal information and must be clear and easy to understand, must specify the type of personal or sensitive information being collected, the purpose of collecting the same, etc. The data collected should not be retained for longer than its intended use and must allow for the review of such information and allow an option to the provider of the information to withdraw consent for such collection, use, etc.

A grievance redressal officer must be designated to address any discrepancies and grievances if the data subjects, and the name and contact details of such an officer must be published on the entity's website. Any grievance is to be redressed no later than one month from the date of receipt of a grievance.

Such rules also prescribe reasonable security practices and procedures to be followed in order to protect the safety and confidentiality of such data. If an entity has implemented the International Standard IS/ISO/IEC 27001 on "**Information Technology Security Techniques-Information Security Management System Requirements**" then it would be deemed to have complied with reasonable security practices and procedures.

New Data Protection Law

On August 11, 2023, a new law "The Digital Personal Data Protection Act, 2023" or the "DPDP Act" was introduced to provide for the processing of digital personal data in a manner that recognizes the right of individuals to protect their personal data and the need to process such personal data for lawful purposes.

The provisions of the DPDP Act will apply to the processing of personal data in the digital form within India (where the data is collected in the digital form or if collected in the non-digital form is digitized subsequently) and to processing of such data outside India, if the processing is in connection with any activity of offering of goods or services to data principals in India.

The provisions of the DPDP Act are not yet in force and a government notification is awaited in this regard. However, the salient provisions of the DPDP Act are as follows:

- The term "personal data" has been defined to mean any data about an individual who is identifiable by or in relation to such data. The earlier differentiation between the personal data and sensitive personal data will be done away with.
- A person may process the personal data of a data principal i.e., an individual to whom the personal data relates, and where the individual is a child, it includes the parents or lawful guardian of the child, and in the case of a person with a disability includes the person's lawful guardian, for which the data principal has provided consent or for a legitimate purpose.
- Consent provided must be free, specific, informed, unconditional and unambiguous with a clear affirmative action, and is to signify an agreement to the processing of the data for the specified purposes and should be limited to such personal data as is necessary for such specified purpose. The request for consent must be made in a clear and plain language, along with an option to access the request in English or any of the 22 different languages specified in the Eight Schedule of the Constitution of India.
- Legitimate uses for which personal data may be processed and for which consent is not mandatory is where the data principal has voluntarily provided the personal data for a specific purpose and for example by a state or its instrumentalities to provide benefits, services, subsidies, etc., where the data principal has previously consented to the processing of such data.
- The term "Significant Data Fiduciary" has been introduced. This means any data fiduciary or a class of data fiduciaries as the government may notify, and is meant to cover data fiduciaries that process, large volumes of data, sensitive personal data, data which may have a potential impact on the sovereignty and integrity of India, public order, etc. Such Significant Data Fiduciaries are to appoint a Data Protection Officer who must be based in India. Other classes of data fiduciary must appoint consent managers. All data principals must be given the right to access, correct and seek erasure of their data and to have their grievances resolved within prescribed time frames.

DATA PROTECTION/PRIVACY, CONT'D

New Data Protection Law, CONT'D

- Processing of personal data outside of India has been permitted. However, the government may by notification prohibit the transfer of personal data to select countries.
- Certain limited exemptions from the applicability of the DPDP Act have been provided, for example, where the processing of the personal data is necessary for enforcing any legal right or claim, the processing by a court or tribunal or similar entities, processing for the prevention, detection, investigation, prosecution of crimes, processing of personal data of principals not within India pursuant to a contract, processing for the purposes of mergers or amalgamations of two or more companies, for responding to medical emergencies, for the purposes of employment, etc. Additionally, the DPDP Act does not apply to personal data processed by an individual for any personal or domestic purpose, and personal data that is made publicly available by the data principal or by a person under a legal obligation to disclose such data.
- Penalties for breach of the provisions of the DPDP Act or the rules made thereunder are significant and depending on the nature of the breach can extend up to approximately US$30M.

Draft Digital Data Personal Data Protection Rules, 2025

In January, 2025, the Ministry of Electronics and Information Technology published the draft Digital Data Personal Data Protection Rules, 2025 (the "Draft Personal Data Protection Rules") for public consultation and thus are not in force yet. Some of the pertinent provisions of the said Rules are as follows:

1. Notice to data principals: The notice to be provided by data fiduciaries to data principals must, among other things, be standalone and distinct from any other information provided, must be clear, and in plain and simple language. Further, the notice must contain an itemized list of the personal data to be collected, and a clear description of the purpose of processing such data.
2. Contact information for queries: Data principals need to be informed of the name and contact information of the person to be contacted for any queries relating to data processing. Such information must be published on the website and/or the mobile application, of the data fiduciary.
3. Reasonable Security Measures: Data fiduciaries are obligated to maintain certain minimum reasonable security measure including encryption, access control, monitoring for unauthorized use, etc. Further, any contracts entered into with data processors must contain provisions that ensure compliance with the aforesaid.
4. Intimation of a data breach: The data fiduciaries are obligated to "**promptly**" inform the data principals of any data breach. Within 72 hours of the breach, the data fiduciary is to inform the statutory board constituted under the DPDP Act, known as the "**Data Protection Board of India**" about the breach with detailed information including the events that led to the breach, steps taken to mitigate the risks arising from the breach, details of notifications sent to the data principals, and any remedial steps taken to prevent any such future breaches.
5. Registration of consent managers: All consent managers need to register with, and be approved by, the said Board.
6. Exercise of rights by data principals: To enable data principals to exercise their rights, consent managers must publish on their website and on their mobile applications, details on how such rights may be exercised.
7. Additional Obligations of Significant Data Fiduciaries: For Significant Data Fiduciaries, additional obligations have been prescribed. These include but are not limited to (i) conducting a data protection impact assessment, and a comprehensive audit once a year. The results of the aforesaid are to be reported to the said Board, (ii) ensuring that any algorithmic software used, including for hosting, storage and sharing, do not pose a risk to the rights of the data principals.

INDIA

ARTIFICIAL INTELLIGENCE

Currently there is no specific legal regime for AI regulation in India. Also, the government has clarified that while it is concerned about ethical issues and risks relating to biases and discrimination in decision making processes, etc., as of now it does not intend to introduce any law to regulate AI. Notwithstanding the aforesaid, the government has been and is focused on keeping abreast with AI related issues which is evident from the fact that a report on National Strategy for AI has been published as early as 2018, and the launch of an AI-based cloud computing infrastructure platform known as AIRAWAT i.e., the Artificial Intelligence Research, Analytics and Knowledge Assimilation Platform. Further, India signed the statement on "**Inclusive and Sustainable Artificial Intelligence for People and the Planet**" at the AI Action Summit held in Paris on February 11, 2025.

EMPLOYEES/CONTRACTORS

Direct Hiring without an Entity in India

Firstly, a foreign entity should know that if it directly hires any person in India as an employee that could lead to adverse tax consequences such as constitution of a permanent establishment in India, and its business income could become taxable in India. Secondly, even if it hires someone in India, as an independent contractor, it needs to be careful that the independent contractor is truly independent, and for example has other clients that the independent contractor is providing same or similar services to or else, again, there could be the adverse tax consequences as stated above.

State Laws

A foreign entity must also know that different state laws would apply to employees in different states and which may have their own unique compliance requirements. For example, while some states such as Karnataka, require a minimum prior notice period and reasons for termination of employment, others states, such as Maharashtra do not so require. And in the case of workers working in industrial establishments, there are further onerous compliance requirements including for lay off or retrenchment of workers especially when the number of workers is 50 or more.

Four Central Labour Law Codes

A foreign entity should also know that India has four central labor laws for the protection of employees and workmen and then also certain state laws in this regard. The said four laws are: **(i) The Code on Wages, 2019, (ii) The Industrial Relations Code, 2020, (iii) the Code on Social Security and (iv) the Occupational Safety, Health and Working Conditions Code, 2020**. However, if the number of employees is not more than 10 then most of such laws would not apply. As the number of employees or workmen keeps increasing, the applicability of such laws increases and there are additional compliance requirements. Also, certain beneficial provisions of such laws apply only to '**workers**' and to '**industrial establishments**.' Someone who is employed mainly in a managerial or administrative capacity is not considered to be a worker. Similarly, someone employed in a supervisory capacity and drawing wages exceeding approximately US$225 per month is also not considered to be a worker. At the moment, the said codes are notified but not implemented due to the pending rules thereunder which are yet to be finalized. Thus, some of the existing labor laws would continue to hold the field.

Work for Hire

A work for hire regime partly does exist under the copyright law but is subject to a contract to the contrary. Thus, it is always prudent to incorporate a specific intellectual property assignment clause with specific language therein such as the term of the assignment, the territory of the assignment and the non-revocability of the assignment. For example, under the copyright law, if the term of an assignment is not specified it is deemed to be for a limited period of five years only.

CONSUMER PROTECTION

In a significant legal development that will impact several advertisers and companies including e-commerce companies, the Central Consumer Protection Authority notified guidelines imposing a prohibition on the use of dark patterns. A dark pattern practice means "any practice or a deceptive design using interface or user experience interactions on any platform that is designed to mislead or trick users, to do something they originally did not intend or want to do, by subverting or impairing the consumer autonomy, decision making or choice, amounting to misleading advertisement or unfair trade practice or violation of consumer rights."

As per the notification, no advertiser, seller and/or platform systematically offering goods or services in India, can engage in dark pattern practices including the following: False Urgency, Basket Sneaking, Confirm Shaming, Forced Action, Subscription Trap, Interface Interference, Bait and Switch, Drip Pricing, Disguised Advertising, Trick Question, Nagging, SAAS Billing, and Rogue Malwares. All the aforesaid terms have been defined and supported by illustrations in the said notification.

Consumer Protection Law

India has a comprehensive law on consumer protection which is the Consumer Protection Act, 2019. This law deals with various aspects of consumer protection such as liabilities of manufacturers, service providers as well as sellers.

Fines and Imprisonment

Further, any manufacturer or service provider who indulges in false or misleading advertising could be punished with imprisonment of up to two years and a fine of up to US$12,500 (approximately). The term of imprisonment and the fine increases for any subsequent offences.

TAX/FUNDING

Tax Holidays

The key legislation that governs taxation of start-ups in India is the Income-tax Act, 1961 (the "Income-tax Act").

In order to encourage start-ups, a tax holiday is available for any seven out of 10 years from the date of incorporation of a start-up provided it meets certain eligibility criteria such as being an innovative start-up or having a scalable business model with the potential to generate large scale employment and wealth, and which does not have revenues exceedingly approximately US$ 11M in any financial year since its incorporation. In order to be eligible for such tax benefits, the start-up needs to be certified as an eligible start-up by a prescribed government authority, and further needs to be certified by a prescribed tax authority. Information about the Income-tax Act is available at: https://incometaxindia.gov.in/pages/tax-information-services.aspx.

Double Taxation Avoidance Agreements

India is also a signatory to various double taxation avoidance agreements. Under such agreements, among other things, the "**business income**" of the foreign parent of a start-up in India is not taxable in India if it does not have a "**permanent establishment**" in India. Thus, in other words, if the start-up in India is deemed to be a permanent establishment of the foreign parent, then the foreign parent's global income attributable to the start-up in India would become liable to tax in India. There are various situations in which a foreign parent may be deemed to have a permanent establishment in India. However, broadly speaking if a foreign parent's startup/ subsidiary in India, is controlled and managed independently and has no authority to habitually negotiate and/or conclude contracts on behalf the parent, the foreign parent's business income should not be taxable in India.

TAX/FUNDING

Goods and service tax

India also has a goods and services tax. Export of services are exempt from such tax provided certain conditions are met one of which being the payment for such services is received by the start-up in India in convertible foreign exchange. Similarly, for "import" of services by a start-up in India, the general rule is that the "importer" would bear the tax for any import of services from overseas. Thus, if the Indian start-up were to receive services from its foreign parent or any other foreign company, then the Indian start-up may need to pay the service tax on such services. As far as payments from the Indian start-up to its parent or other foreign entities are concerned, those may be subject to withholding taxes in India depending on the nature of the payment. For example, royalty payments would attract withholding taxes.

Importantly, e-commerce operators including foreign e-commerce operators are obligated to collect tax at source of up to 1% of the aggregate value of supplies made through their platform.

Incentives in an International Financial Services Center

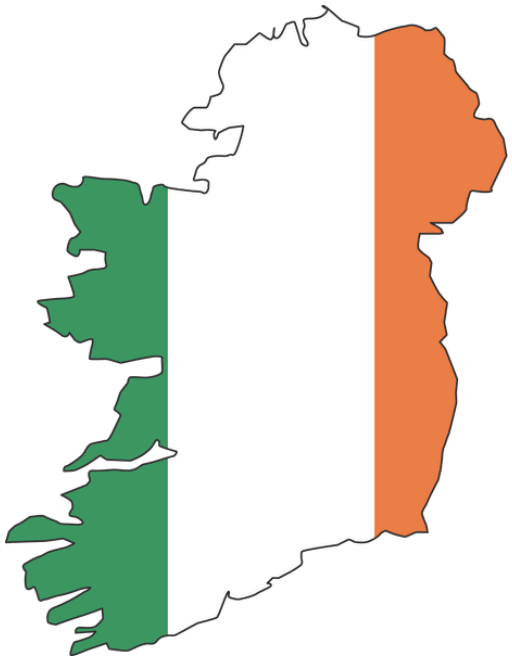
If a start-up incorporates itself in an International Financial Services Center, such as the Gift City in Gujarat, and if it is engaged in eligible activities primarily relating to the banking or financial services, it would be eligible to obtain a tax holiday for any 10 out of 15 consecutive years for its export income.

Transactions within the Gift City are also exempt from the goods and service tax.

Various subsidies in the form of capital expenditure subsidies, operating expenses subsidies, electricity related subsidies, interest subsidies and employment generation related subsidies are available. For example, a onetime capital expenditure subsidy of 25% of the capital expenditure incurred is available. Similarly, 15% of the operating expenditure is provided as a subsidy for 5 years subject to certain conditions. A link to information about the Gift City is: https://api.giftgujarat.in/public/tool-guiedes-for-setting/DoingBusinessatIFSC.pdf.

Funding and Incentives

Under the "Start-up India" initiative of the government, several funding opportunities and incentives are available to eligible start-ups. For example, (i) under the Credit Guarantee Scheme for start-ups, an eligible start-up can procure a collateral free loan on the basis of a government backed guarantee, (ii) under the Startup India Seed Fund Scheme, government funding is made available to eligible start-ups for developing prototypes, conducting product trials, etc. Information about such funding and incentives is available at: https://www.startupindia.gov.in/content/sih/en/startup-scheme.html.



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LEGAL FOUNDATIONS

Ireland has a common law system. There are four primary sources of law, being the Irish Constitution, domestic legislation, case law developed by the judiciary, and laws of the European Union (which may be statutory or emanate from decisions of the Court of Justice of the European Union ("CJEU")).

The Irish court system consists of three higher courts (the Supreme Court, the Court of Appeal and the High Court), and courts of more limited jurisdiction (the District Court and Circuit Court). Commercial disputes with a value of EUR1m or over, as well as certain other specific types of disputes (such as relating to intellectual property), can be entered into the Commercial Court (the commercial division of the High Court). The Commercial Court offers a relatively 'fast track' process, designed to facilitate a quicker and more efficient resolution of disputes. By virtue of Ireland's membership of the European Union, Irish courts may also refer relevant points of law to the CJEU.

Ireland has enacted the UNCITRAL Model Law on International Commercial Arbitration and is also a signatory to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

CORPORATE STRUCTURES

LTD

The nominal share capital of an LTD can be as large or small as the promoters wish. The capital is usually denominated in Euro, but can be denominated in US Dollars or any other currency. There must be at least one issued share (usually EUR1 each, although it can be smaller). There is no requirement to have an authorised share capital.

An LTD is formed when the Irish Registrar of Companies issues a certificate of incorporation after the filing with the Irish Companies Registration Office (CRO) of a duly executed CRO Form A1, a constitution of the company and payment of applicable CRO fees. The constitution is a single document which must be signed by the subscribing shareholder(s) and it, together with the Companies Act 2014 (the "Companies Act"), determines the rules that will govern and regulate the activities of the LTD.

An Irish company's standard constitution is normally very short with the majority of terms simply incorporated via various sections of the Companies Act. This requires the constitution to be read in tandem with the relevant provisions of the Companies Act. As a business grows and the underlying corporate structure becomes more complex, a company will often adopt a more comprehensive constitution detailing the bespoke provisions it requires.

CORPORATE STRUCTURES, CONT'D

DAC

An alternative to an LTD is another form of private limited company, formally known as a designated activity company or DAC. A DAC is a private limited company that is only able to carry out specified activities (or objects) and must have an authorised share capital. DACs tend to be used where the shareholders want the capacity of the company to be clearly prescribed, such as with management companies or joint venture vehicles. DACs are also used to list debt and securities and to carry out certain regulated activities, none of which an LTD is permitted to do (for regulatory reasons). The requirements regarding directors, company secretary and registered office are the same as for an LTD.

The much more flexible and cost efficient LTD is far more common in Ireland, particularly for start-ups. It does not need to specify its activities in objects (it has a single document constitution as mentioned above), nor have an authorised share capital

Other type of legal entity

In terms of other types of entity that could be considered from an Irish company law perspective, there are unlimited liability companies. The shareholders' liability is not linked to the amount they agree to pay for shares so their liability is unlimited, a key difference from a DAC. Unlimited liability companies have some benefits, such as more flexible rules relating to extraction of cash or other assets and distributions to shareholders. Other types of companies that are available but which would not generally be suitable for start-ups are companies limited by guarantee (these are more appropriate for charities, other non-profit organisations and property management companies) and public companies.
Ireland has limited partnerships ("LPs") and general partnerships. It would not be advisable to use a general partnership structure for start-ups as liability is not limited and LPs are more suited to private equity and property-owning fund structures.
Sole Proprietorships are not generally used by start-ups in Ireland because of the fact that the owner would be required to enter into contracts in their own name, and would not be able to avail of the benefits of incorporation (e.g. limited liability).

ENTERING THE COUNTRY

Against the backdrop of the EU Investment Screening Regulation (Regulation (EU) 2019/452 ("FDI Screening Regulation") becoming effective in October 2020, the Irish Screening of Third Countries Transactions Act 2023 (the "Screening Act") became operational in January 2025. The FDI Screening Regulation and the Screening Act regulate the acquisition of strategic EU interests and companies by undertakings from third countries (non-EU members), with a view to maintaining public order and security.

Under the Screening Act, a new mandatory notification to, and 'screening procedure' by, the Minister for Enterprise, Trade and Employment ("Minister") is required for certain transactions that involve third country or foreign-controlled undertakings (this includes both companies and individuals outside the EU, EEA and Switzerland) that are parties to a transaction if the following conditions are met:

- a third country undertaking or a connected person is a party to the transaction;
- the value of the transaction is at least EUR2m;
- the transaction relates to critical infrastructure and technologies, natural resources, sensitive data and media; and
- the transaction relates to an asset or undertaking in the State.

ENTERING THE COUNTRY, CONT'D

It is noteworthy that the UK (on the basis that it is not a member of the EEA) is classified as a third country for the purposes of the Act, which is significant given the level of investment by UK investors into Ireland.

A "transaction" includes any transaction or proposed transaction where a change of control of an asset or the acquisition of all or part of an undertaking in the State is affected. The concept of "control" is the same as in the EU and Irish merger control regime and relates to 'direct or indirect influence' over the activities of the undertaking (e.g. voting rights or securities, ownership of assets of the undertaking or rights and contracts providing influence over the decisions of the undertaking).

The Screening Act replicates the FDI Screening Regulation and focusses the notification / screening obligation on transactions in the below sectors / businesses:

- critical infrastructure including energy, transport, water, communications, aerospace, defence, data storage and processing;
- critical technologies including artificial intelligence, robotics, semiconductors, cybersecurity, etc.;
- critical inputs including energy, raw materials and food security;
- access to sensitive and personal data; and media.

The obligation rests on all parties to a transaction to make the notification, however in practice (as with merger control) the buyer tends to play the more active role in driving the process. A failure to correctly notify the Minister is a criminal offence and parties may be liable (a) on summary conviction, to a fine of up to EUR2,500 and / or 6 months' imprisonment, or both, or (b) on conviction on indictment, to a fine of up to EUR4m and / or 5 years' imprisonment, or both.

The Minister will review notifications received but retains broad powers to also review non-notifiable transactions where there are reasonable grounds for believing that the transaction may affect security or public order in the State (criteria for this assessment are set out in the Screening Act), and where the transaction results in a third country undertaking acquiring control of an asset or undertaking in the State.

If a screening decision concludes that public order or security may be affected by a transaction, the Minister can direct that the transaction is not to be completed, or that certain other steps are undertaken by the parties.

IRELAND

INTELLECTUAL PROPERTY

In Ireland various rights including copyright, patents, trademarks and designs are capable of creation and protection. Disputes in relation to intellectual property are heard in the Commercial Court which has a specialist Intellectual Property and Technology List (IP & Tech List).

Patents

- **What do they protect?** An invention: a new and innovative way of doing something, or solving a technical problem (includes products and processes).
- **How are IP owner's rights protected?** Prevents unauthorised making, using or selling of the patented invention.
- **What term of protection is afforded?** Up to 20 years.
- **Where to register?** Intellectual Property Office of Ireland (IPOI) or the European Patent Office (EPO).
- **Cost:** €125 initial filing fee, €200 fee for searches before grant, €64 fee for grant

Trademarks

- **What do they protect?** Distinctive signs that identify brands of products/services (e.g. words, personal names, designs, letters, numerals, colours, shapes, packaging, sounds).
- **How are IP owner's rights protected?** Prevents unauthorised use of distinctive signs for the same or related products or/services.
- **What term of protection is afforded?** Indefinite, subject to use in commerce and renewals.
- **Where to register?** Intellectual Property Office of Ireland (IPOI) (provides protection in Ireland only). If the goods or services will be marketed in other countries, a filing with the World Intellectual Property Organization (WIPO) under the Madrid Protocol will be required.
- **Madrid Protocol:** Ireland ratified the Madrid Protocol on 19 July 2001 and the Protocol entered into force, with respect to Ireland, on 19 October 2001. Consequently, the Madrid Protocol governs international trade mark applications received in the Intellectual Property Office of Ireland.
- **Unregistered rights:** Brand owners can also seek protection through unregistered rights and the tort of passing off. To successfully claim passing off, which is notoriously challenging, you must cumulatively prove the following: (i) goodwill in your unregistered mark; (ii) misrepresentation by the competitor; and (iii) damage to the goodwill established in your unregistered mark.
- **Cost:** €70 initial application fee, additional €70 for each additional classification, €177 registration fee if application is successful, €250 renewal fee every 10 years, €125 renewal fee for each additional classification

Copyright

- **What does it protect?** A work: an original intellectual creation (e.g. audio-visual works, pictures, graphics, architecture, databases, software, designs, literature, novels, poems, plays, music and video, dramatic works).
- **How are IP owner's rights protected?** Prevents the work being (without authorisation) copied, published, distributed or made available online and protects the integrity and attribution of the work.
- **What term of protection is afforded?** Generally copyright protection lasts lifetime of the author plus 70 years after death (depending on the country). For sound recordings, the term is 50 years if created before 1 November 2013, and 70 years for recordings created on or after 1 November 2013.
- **Where to register?** There is no registration procedure for copyright works under Irish copyright law. Copyright protection is automatic and arises upon the creation of an original work.
- **Cost:** N/A.

INTELLECTUAL PROPERTY, CONT'D

Designs

- **What do they protect?** A new and original visual appearance of a product (e.g. packages, containers, furnishings, graphic symbols, computer icons, typefaces, graphical user interfaces, logos and maps).
- **How are IP owner's rights protected?** Prevents unauthorised use of an identical or similar visual appearance for the same kind of products and/or services.
- **What term of protection is afforded?** Up to 25 years for registered designs.
- **Where to register?** IPOI or European Union Intellectual Property Office (EUIPO). It is not necessary to register a design, but it is highly advisable. Unregistered designs are protected for 3 years from first disclosure and are only protected from unauthorised copying.
- **Cost:** €70 initial application fee, in the case of an application to register multiple designs, the fee is €70 plus €25 per design. The range of renewal fees vary by year, starting at €50 for the first year and range to €100 for the fifth and final year.

Trade Secrets

- **What do they protect?** Any type of useful information for business that is secret and kept confidential (e.g. any confidential information: business methods, customer lists, R&D data, financial information, cooking recipes, software, datasets, know-how, algorithms).
- **How are IP owner's rights protected?** Prevents others from using the confidential information, as long as it remains secret. Ability to claim monetary compensation in case of unlawful disclosure of the confidential information.
- **What term of protection is afforded?** Indefinite, provided the information is not revealed.
- **Where to register?** N/A.
- **Cost:** N/A.
- **Legislation:** The legal regime for the protection of commercial/trade secrets in Ireland is governed by the European Union (Protection of Trade Secrets) Regulations 2018. These Regulations give effect to EU Trade Secrets Directive (EU 2016/943) and provide for civil redress measures in respect of the unlawful acquisition, use and disclosure of trade secrets.

DATA PROTECTION/PRIVACY

In Ireland, data protection laws consist primarily of the Data Protection Acts 1988 to 2018 ("DPA"), the General Data Protection Regulation (EU) 2016/679 ("GDPR") and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 ("ePrivacy Regulations"). The supervisory authority for data protection in Ireland is the Data Protection Commission ("DPC").

The DPA sets out Irish derogations from the GDPR and further rules for its implementation in Ireland. These include the following:

- there is no obligation to register as a controller or processor with the DPC;
- all DPOs are required to register with the DPC;
- where consent is relied on for processing personal data relating to the offer of information society services directly to a child, such consent can only be provided by the child where the child is 16 years of age or over. However, the DPA states that all other references to a "child" in the GDPR means a person under the age of 18 years;
- the DPA sets out certain restrictions on data subject rights otherwise provided for in the GDPR; and
- \in addition to Articles 9 and 10 of the GDPR, the DPA sets out some further circumstances where special category data and data related to criminal offences and convictions may be processed;

DATA PROTECTION/PRIVACY, CONT'D

The ePrivacy Regulations set out rules for sending direct marketing, including messages sent by text, phone, email and in-product messaging (such as notifications on an app or software platform). The rules depend on the type of messaging and type of recipient. In most cases, organisations can only send email marketing with the consent of the recipient, or where there is a pre-existing commercial relationship with the recipient meeting certain conditions (known as 'soft opt-in'). These conditions require that the individual's contact details were obtained during the sale of the organisation's product or a service, that the marketing relates to similar products or services, and that the individual is provided with the option to opt-out of marketing both at the time of collection of their details and in all subsequent marketing communications.

Data protection laws should be read together with relevant DPC guidance, which provides some direction as to how those laws and their requirements are interpreted by the DPC.

The DPC is the lead EU data protection supervisory authority for a number of multinational technology companies by virtue of their European operations being headquartered in Ireland. As a result, the DPC has handled some high profile, pivotal enforcement actions and cases in recent years. Recent enforcement activity includes the DPC's €530 million fine against a technology multinational in May 2025 for unlawful data transfers to China and failure to meet transparency requirements. This decision underscores the DPC's increasingly significant role in shaping EU wide enforcement on cross border data protection issues.

ARTIFICIAL INTELLIGENCE

The EU AI Act is directly applicable in Ireland and is the primary regulatory regime relating to AI in the jurisdiction. In February 2026, the Irish government published the General Scheme of the Regulation of Artificial Intelligence Bill 2026 (the "General Scheme"), which comprises proposed national legislation to implement aspects of the EU AI Act in Ireland.

The General Scheme proposes to establish a new statutory independent body, Oifig Intleachta Shaorga na hÉireann (the AI Office of Ireland), under the remit of the Department of Enterprise, Tourism and Employment, to act as the central coordinating authority and single point of contact under the EU AI Act, while sectoral regulators supervise compliance. The Office is scheduled to be in place by August 2026.

The General Scheme also provides for the empowerment and designation of a set of national competent authorities responsible for supervision of compliance with the EU AI Act, expected to include:

- Central Bank of Ireland
- Coimisiún na Meán (the Media Commission)
- Commission for Communications Regulation
- Commission for Railway Regulation
- Commission for Regulation of Utilities
- Competition and Consumer Protection Commission
- Data Protection Commission
- Health and Safety Authority
- Health Products Regulatory Authority
- Health Service Executive
- Marine Survey Office of the Department of Transport
- Minister for Enterprise, Tourism and Employment
- Minister for Transport
- National Transport Authority
- Workplace Relations Commission

ARTIFICIAL INTELLIGENCE, CONT'D

The General Scheme provides for national procedures for investigations and appeals, empowers sectoral regulators with inspection and sanctioning powers, establishes penalty frameworks and formalises coordination and reporting obligations. The Scheme also outlines the establishment of a national register of high-risk AI systems and prohibited practices, and mandates regulatory sandboxes with priority access for SMEs.

Implementation timelines and some supervisory structures may also be shaped by the EU's Digital Omnibus proposals, which aim to streamline interactions between AI governance, GDPR, the Digital Services Act and NIS2.

AI remains subject to certain general legal requirements, such as laws relating to data protection and intellectual property. All the usual requirements of the GDPR apply to the processing of personal data in the context of the development, training, use, and sale of AI. Developers should be aware of the basic principles of lawful processing and purpose limitation set out in Article 5 of the GDPR, particularly in the context of large language models that involve the processing of very large quantities of data. Article 22 of the GDPR, which imposes restrictions on automated decision making, is of particular relevance to AI tools. Protections afforded to authors and other rights arising under copyright law will be relevant in particular to generative AI.

EMPLOYEES/CONTRACTORS

General

The distinction between an employee and an independent contractor is a vexed one. Courts and tribunals will analyse an individual's status by reference to how the relationship operates and not the label applied by the parties.

In Ireland, employees enjoy a broad range of protections relating to matters such as working time, dismissal, discrimination and statutory leave.

Employers must furnish a written statement containing certain core terms of employment within 5 days of an employee's start date. The remaining minimum terms and conditions of employment must be furnished to an employee within one month of their start date.

It is common for employers to issue a detailed employment contract addressing not only the core terms, but also matters such as confidential information, intellectual property and post-termination restrictions.
In addition to the employment contract, it is also important for an employer to put in place certain basic employment policies. These should include a disciplinary policy, a grievance procedure and a dignity at work policy.

It is possible to engage an individual/entity as a contractor in Ireland. However, caution must be exercised to ensure that the relationship is not misclassified. In 2023, the Supreme Court delivered a detailed judgment in a case concerning the status of pizza delivery drivers. The principles set out in this judgment should be considered carefully by organisations which are considering engaging individuals/entities as contractors.

EMPLOYEES/CONTRACTORS, CONT'D

Work for Hire Regime

Generally, any intellectual property created by employees in the course of their employment is the property of their employer. However, it is relatively common for employment contracts and consultancy agreements to include detailed intellectual property protection clauses.

Termination

Irish employment law provides substantial protections to employees who are dismissed.

Under the Unfair Dismissals Acts, a dismissal will be deemed unfair unless an employer can demonstrate that there was a fair reason for the dismissal (i.e. redundancy, conduct, capability competence or qualifications, the employee being unable to work or continue to work in the position held without contravention of a duty or restriction imposed by or under legislation or some other substantial reason) and that the employer acted reasonably in effecting the dismissal. Generally, an employee must have at least 12 months' continuous service to be protected by the Unfair Dismissals Acts. Where a dismissal is found to be unfair, the relevant adjudication body may order reinstatement, re-engagement or compensation of up to two years' gross remuneration.

A further potential risk for employers is the possibility of a claim under the Employment Equality Acts. There is no service requirement to bring a claim under the Employment Equality Acts or duty to mitigate loss. The potential redress is reinstatement, re-engagement and/or compensation. Compensation is limited to two years' gross remuneration or up to €40,000, whichever is greater.

Under industrial relations legislation, an employee who has been dismissed may bring a complaint that there has been a trade dispute (which is defined very broadly). There is no service requirement. The complaint may result in a non-binding recommendation being made.

An employee who has been dismissed or who is at risk of dismissal may seek injunctive relief before the civil courts, particularly where the dismissal/potential dismissal is conduct related. This type of action tends to be more commonly pursued by senior level employees. There is no length of service requirement.

CONSUMER PROTECTION

The primary consumer protection laws comprise the Sale of Goods Act 1893, Sale of Goods and Supply of Services Act 1980, Consumer Protection Act 2007, and the Consumer Rights Act 2022. Consumer protection laws tend to apply to all business activities involving Irish consumers.

The 1893 Act and 1980 Act, and now primarily the Consumer Rights Act 2022 in consumer contracts, imply certain conditions into consumer contracts which cannot be excluded, including that goods conform with the contract, are of satisfactory quality and are fit for their intended purpose. The 2007 Act sets out, among other things, rules relating to unfair and misleading commercial practices, as well as certain prohibited commercial practices, when dealing with consumers.

The 2022 Act consolidates and builds on elements of previous legislation and seeks to update consumer laws for the digital age. The Act includes requirements, for example, relating to transparency of terms and a consumer's right to cancel a contract entered online (within certain parameters). The Act also transposes several EU Directives into domestic law and operates to generally bolster protection for consumers.

CONSUMER PROTECTION, CONT'D

Recently transposed EU legislation gives Irish consumers a mechanism to pursue collective redress for infringements of consumer law. The Representative Actions for the Protection of the Collective Interests of Consumers Act 2023 (commenced in April 2024) transposed the EU Representative Actions Directive into Irish law. Under this regime, 'qualified entities' can represent groups of consumers in domestic or cross-border actions. Qualified entities must be non-profit or public bodies approved by the relevant member state (in Ireland, the Department of Enterprise, Trade and Employment).

The Competition and Consumer Protection Commission is responsible for safeguarding consumer protection in Ireland and has a number of enforcement powers at its disposal for non-compliance.

In March 2025, the Central Bank of Ireland published a modernised Consumer Protection Code 2025, which replaces the Consumer Protection Code 2012 and will come into force on 24 March 2026. This new Code updates standards for regulated financial services providers, including enhanced digital protections, new obligations towards vulnerable consumers and revised sector-specific requirements.

TERMS OF SERVICE

Under Irish law, a consumer must be provided with certain information before online terms of service become legally binding against the consumer. This information includes:

- the total price or how it will be calculated (if it cannot be reasonably calculated in advance); the trader's complaint handling policy (where applicable);
- where the consumer has a right to cancel the contract, the conditions, time limit and procedures for exercising that right; and
- the duration of the contract, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating it.

The 2022 Act sets out a list of terms that are automatically unfair, including terms:

- giving the seller a shorter notice period to terminate the contract than the consumer;
- giving the seller the exclusive right to interpret a term of the contract; or
- conferring exclusive jurisdiction for disputes arising under the contract on a court in the place where a trader is domiciled unless the consumer is also domiciled in that place.

The 2022 Act also sets out a "grey list" of terms which are presumed unfair until the contrary is proven. These include terms that:

- automatically extend a fixed term contract unless the consumer indicates otherwise, where there is an unreasonably early deadline for the consumer to object to the extension of the contract;
- bind the consumer to terms and conditions they had no real opportunity to fully understand before the contract was entered into; or
- allow the trader to unilaterally alter the terms of the contract without a valid reason which is specified in the contract.

Unfair terms in consumer contracts are not binding on the consumer.

Recent legislation prohibits unfair terms relating to data sharing and access in certain unnegotiated business to business agreements. The EU Data Act, which has been directly applicable in Ireland since September 2025, sets out a list of terms that will always be unfair, and a list of terms presumed to be unfair. Unfair terms that are unilaterally imposed by one party are not binding on the other party.

TAX/FUNDING

TAX

Administration: The Revenue Commissioners have sole and exclusive authority over taxation matters in Ireland.

Corporation tax: Irish companies are subject to a rate of 12.5% on trading income. Non-trading income is generally taxable at 25%. For a very small number of companies, the minimum effective corporate tax rate of 15% applies from 1 January 2024 (this represents Ireland's implementation of the EU Minimum Tax Directive).

Dividends: In January 2025, Ireland introduced a participation exemption in respect of dividends or other distributions received from companies in the EU/EEA or a country which has agreed a double tax treaty ("DTT") with Ireland. From 1 January 2026, the participation exemption has been broadened to include dividends from jurisdictions that apply non-refundable withholding taxes, and the historic 5-year look-back requirement is reduced to 3 years, simplifying qualification and widening access. The 'tax and credit' approach which existed prior to 1 January 2025 continues to operate in tandem with the participation exemption with taxpayers being required to elect for the latter on an accounting period by accounting period basis.

Withholding Taxes: Irish dividends are subject to a 25% withholding tax (known as 'dividend withholding tax' or DWT). Exemptions from DWT may also be available under Irish domestic law. Pursuant to the Irish implementation of the EU Parent-Subsidiary Directive, DWT is not payable on dividends paid by Irish resident companies to a company resident in another EU member state where it holds at least 5% of the ordinary share capital in that company and certain requirements are satisfied. Withholding tax at a rate of 20% is levied on 'yearly interest' paid by a company. In the case of royalties, withholding tax is only applicable to patent royalties at the rate of 20% but there are a number of exemptions under Irish domestic law. Similar to DWT, exemptions from withholding tax on interest and patent royalties may also be available under Irish domestic law. In all cases, the rate of withholding tax may be reduced in line with a DTT that Ireland has agreed.

Capital Gains Tax ("CGT"): Capital gains, other than gains from development land, are included in an Irish company's profits for corporation tax purposes and are subject to an effective rate of 33%. Disposals by an Irish company of shares in a subsidiary company that is resident in Ireland, another an EU member state or a country with which Ireland agreed a DTT are exempt from CGT if, at the time of the disposal, the subsidiary company carries on a trade, or the activities of the disposing company and all of its 5% subsidiaries taken together amount to mainly trading activities. The disposing company must hold or have held at least 5% of the ordinary share capital, as well as similar dividend participation and asset entitlement rights in the subsidiary company for at least 12 months, beginning not more than two years before the disposal. Various tax reliefs may be relevant to individuals disposing of shares in an Irish company, including revised entrepreneur relief, retirement relief and angel investor relief. Revised entrepreneur relief provides for a reduced rate of CGT of 10% on gains of up to €1.5 million over a lifetime, arising from the disposal of qualifying business assets.

VAT: VAT is a transaction tax based on EU directives as implemented into Irish law. It is chargeable on the supply of goods and services in Ireland and on goods imported into Ireland from outside the EU. The application of VAT to a supply of goods or services depends on the place of supply of those goods or services. VAT is payable on goods and services supplied in Ireland by taxable persons in the course of business. VAT is also payable on goods imported into Ireland from outside the EU. The rates of VAT currently range from 0% to 23%. An Irish established taxable person is required to register for VAT purposes when its annual turnover exceeds €42,500 in the case of services or €85,000 in the case of goods. A non-Irish established taxable person supplying taxable goods or services in Ireland must register and account for VAT irrespective of the level of turnover.

TAX/FUNDING, CONT'D

Tax, CONT'D

Stamp duty: Stamp duty is a tax on certain instruments (primarily written documents). Generally, unless exempted, stamp duty is chargeable on certain documents which are executed in Ireland or, if executed outside Ireland, relates to Irish situate property or something done or to be done in Ireland. Generally, the purchaser/transferee is liable to pay stamp duty arising on a written instrument, and a return must be filed and stamp duty paid within 44 days following the execution of the instrument. Stamp duty is broadly charged on either the consideration paid for or the market value of the relevant asset, whichever is the higher. Transfers of Irish stocks and marketable securities are broadly chargeable to stamp duty at a rate of 1% whereas a 7.5% rate applies to the transfer of non-residential property. The transfer of residential property can attract stamp duty rates ranging from 1% to 6%. The Irish government introduced a new exemption from the 1% stamp duty on acquisitions of shares in Irish registered companies from January 2026. This applies to the shares of companies admitted for trading on a regulated market, a multi-lateral trading facility, or an equivalent third country market and which has a market capitalisation of below €1 billion. A sunset clause will apply, expiring on 31 December 2030.

DTT Network: Ireland has a comprehensive network of DTTs. Currently, Ireland has entered into treaties with 78 countries, of which 75 are in effect. The agreements cover direct taxes, which in the case of Ireland are income tax, the Universal Social Charge, corporation tax and CGT.

IP regime: Ireland has developed a sophisticated business environment and access to the requisite specialist staff, know-how and investment resulting in many of the world's leading technology, pharma, life sciences and fintech companies establishing operations in Ireland for their businesses. As part of this offering, Ireland operates substantial tax benefits to companies exploiting IP rights in and from Ireland, including capital allowances on expenditure incurred on the acquisition of IP, a research and development tax credit, and a OECD-compliant knowledge development box. From 1 January 2026, the rate of the Irish research and development tax credit increased from 30% to 35%, with the first-year payment threshold rising to €87,500.

Special employee incentives: Ireland operates a number of special employee incentives, including the 'Special Assignee Relief Programme' ("SARP") which provides tax relief for certain executives working in the EU/EEA, a DTT country, or a country which has a tax information exchange agreement with Ireland, who are seconded to work in Ireland. SARP has been extended to 31 December 2030. From 1 January 2026, the minimum basic annual salary requirement for new claimants has increased from €100,000 to €125,000. Ireland also operates the 'Foreign Earnings Deduction' ("FED") for Irish residents who are required to work in certain countries (such as Brazil, Russia, India, China and South Africa) up to 31 December 2030. From 1 January 2026, the cap on qualifying employment income under FED has increased from €35,000 to €50,000 and the geographic scope has been expanded to include qualifying workdays in the Philippines and Türkiye.

Funding of start-ups in Ireland

Ireland has a sophisticated infrastructure for the funding of start-up companies, comprising both government backed and private sector options. Start-companies often utilise a combination of these funding options at pre-seed and seed funding stage.

Enterprise Ireland

Enterprise Ireland ("EI") is the enterprise development agency of the Irish government. By deal volume, it is one of the most active funders of early-stage companies in Europe. Enterprise Ireland offers funding both in the form of grants and also by way of equity investment in promising start-ups. EI also has deep industry knowledge and contacts across a variety of sectors. https://www.enterprise-ireland.com/en/

TAX/FUNDING, CONT'D

Funding, CONT'D

IDA

IDA Ireland is the Irish Government's inward investment promotion agency. While the IDA does not directly invest in start-up companies, it does provide a wide array of supports, including grants for R&D, talent development and digitisation and growth. https://www.idaireland.com/

Venture capital

Ireland has an established venture capital community, comprising a mix of domestic and international VC funds. These firms are active investors in many sectors, in particular in technology, fintech and early-stage med-tech and healthcare companies. The venture capital community in Ireland participates in a variety of investments, depending on the nature of the opportunity and regularly the market will see investments stem from seed right through to series B and C funding rounds. The IVCA (Irish Venture Capital and Private Equity Association) is the representative body of the active VC firms in Ireland. The IVCA reported that a record €1.48 billion was invested by VC firms into early-stage Irish companies in 2024, while full-year data for 2025 data indicates total VC investment of approximately €1.1 billion, reflecting a contraction following the 2024 peak. Venture capital companies are also deeply connected with experienced angel investors with sectoral expertise and co-operate in early-stage investment. https://www.ivca.ie/

Angel investors and syndicates

As the technology sector has matured in Ireland, "exited founders" of successful start-up companies have taken up positions as leading angel investors in their respective fields. These experienced angel investors are now a crucial part of the funding landscape, in particular for pre-seed rounds, where the business is at too early a stage for VC investment, but capital is required for product development. Often angel investors will invest via established syndicates, which combine the funding and expertise of a pool of investors. The HBAN network is the most active network of angel investors and syndicates. It facilitates multiple investments each year through its platform. https://www.hban.org/

Alternative investment platforms

In the last 3-4 years, a number of alternative investment platforms have emerged in the Irish market, which are actively seeking to facilitate and participate in the funding of early-stage companies. The most active of these platforms is crowd funding, which can be an attractive option for early-stage companies, due to the reduced costs incurred on professional services and advisors. These platforms remain at an early stage but are becoming increasingly popular.



ISRAEL

CONTRIBUTORS

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ISRAEL

LEGAL FOUNDATIONS

Israeli law is largely based on the **common law**. As a relatively small jurisdiction, Israel does not have a federal system and power is centralized in Israel's parliament ('knesset'). Israel does not have a formal written constitution but Israel's parliament has previously enacted a series of **quasi-constitutional laws** ("hukey hayesod") that have special status under Israeli law.

Israeli courts are made up of professional judges, without use of juries. There are three levels of courts as follows:

- **the magistrate courts**, with jurisdiction over certain civil matters and offences punishiable up to three years,
- **the district courts**, based in six major cities (Jerusalem, Tel Aviv, Haifa, Beersheva, Lod and Nazareth), with general jurisdiction in civil and criminal matters. The district courts in Tel Aviv and Haifa also boast economic divisions with judges specializing in and with jurisdiction to hear commercial disputes, and
- **the Supreme Court in Jerusalem**, determining appeals from inferior courts. The Supreme Court also sits as a court of first instance, acting in its capacity as a High Court of Justice ('bagatz') where it hears petitions against actions of public bodies as well as the constitutionality of laws legislated by Israel's parliament.

The employment court system is separate from the civil court system and specializes in employment relationships. The employment courts have exclusive authority to hear claims between employers and employees (both collective and personal disputes), as well as between employer and employee organizations.

ISRAEL

CORPORATE STRUCTURES

Under the laws of Israel, a simple limited liability company (Ltd.) is most readily used by start-ups and offer the most attractive space for growth of a young company. While other legal structures do exist in Israel (e.g. partnerships, sole tradership), these are not typically suitable for growth focussed start-up companies.

Limited Liability Company (Ba"am)

The Israeli limited liability company is the most common and accepted business entity in Israel (Ltd.) and has a simple procedure for establishment:

- There is **no minimum registered capital requirement** and no requirement to maintain or deposit any amounts against the registered capital.
- Companies are required to have a **minimum of one shareholder**, whether individual or a legal entity, and a **minimum of one director**, for its incorporation.
- A strong advantage is that the shareholders' liability for the company's debts is limited, as implied by the name.
- In order to incorporate a company as a limited liability company, the founders of the company must complete the following documents and file them with the Israeli Registrar of Companies:
  - (i) "Company Formation Form" signed by the company directors and shareholders, including details such as the name of the company, shareholders' personal details, address, composition of the company's share capital and the allotted share capital;
  - (ii) first directors' declaration form; and
  - (iii) the articles of association, signed by all of the shareholders.
- If any of the shareholders or directors is a foreign citizen or foreign legal entity, a notarized copy of the foreign citizen's passport or registration documents of the foreign entity are also required to be submitted.
- All of the documents above must be **submitted in Hebrew only**, other than the articles of association which may be submitted in English or Hebrew.
- The registration fee is around **NIS 2,500**.
- Upon submission of the registration documents it is possible to receive a certificate of formation of the company within four business days, often earlier.

Sole Trader (Osek Patur and Osek Murshe)

Individuals in Israel can operate a business as a sole trader via two different forms: (i) an exempt business ('Osek Patur') or (ii) an authorized business ('Osek Murshe'). This form of operation is largely suitable for someone who wants to open a business without forming a corporate entity.

Osek Patur, is one of the simplest forms of business classifications in Israel but is limited to companies with a maximum annual turnover of around NIS 100,500. Furthermore, this form of business is not required to pay any Value Added Tax (VAT) for trading transactions.

On the other hand, Osek Murshe is for companies with an annual turnover of NIS 100,000 or more, allowing for easier expansion of a business, and it also allows employment of workers in the business. It should be noted, however, that this type of business is obliged to pay VAT from all trading operations (though it is possible to reimburse VAT on incoming trading operations such as purchase of raw materials and other necessary expending of the business).

For various reasons, neither the Osek Murshe or the Osek Patur are likely to be suitable for start-ups looking to grow their business and bring on external investors, not least due to the fact that the owners' liability is not limited.

ENTERING THE COUNTRY

In general, foreign entities or individuals can freely purchase and sell assets and securities in Israel. There are no broad restrictions on foreign investment in Israel, nor are there specific sectors of the Israeli economy in which FDIs are categorically prohibited, as there is no comprehensive or consolidated foreign direct investment (FDI) regime.

However, various sectors of the economy and specific regulators do have their own unique FDI oversight powers that can be exercised using administrative discretion. These powers stem from sector-specific sets of authorizing statutes and secondary legislation. This has resulted in a mosaic of different (and sometimes overlapping) sets of FDI restrictions that are sector-specific and may include, for example, defense, communications, financial sectors/banking, real estate, and insurance, amongst others. Importantly, this FDI oversight regime was never focused on national security specifically. Each such regulator wields its own unique toolbox for overseeing foreign investment and does so relying on its own unique set of public policy considerations that include national security (among other considerations, such as general welfare or macroeconomic concerns).

Usually, Israeli start-ups do not typically target the domestic market (given its limited size) and therefore it would be rare for them to fall under the above described FDI oversight powers. However, depending on the sector in which a start up operates or the nature of the technology it develops, it may face hurdles when trying to raise capital in certain countries that are deemed high risk from a national security perspective.

Historically, national security has been one of the largest, if not the largest, concerns within Israel. Coupled with outside pressure from Israel's Western allies (particularly the US), an **FDI Oversight Committee** was created in 2019 in order to give authority to a closed list of regulators overseeing certain essential infrastructure or areas vulnerable to national security concerns to refer cases for review (this list is detailed below). Such concerns may include the potential formation of significant influence by a foreign entity over a company in Israel, which may pose a risk to national security or foreign relations; this also extends to the disclosure of information to a foreign party which may cause harm to Israel's security. In this regard, generally, this closed list of regulators may refer a foreign investment transaction to the Oversight Committee for review when the following (cumulative) conditions are met:

- there is a potential foreign investment;
- by a 'foreign party';
- in a transaction whose execution requires obtaining a permit for either controlling or holding a concession or license from one of the following regulators:
  - Bank of Israel;
  - Israel Securities Authority;
  - Capital Markets, Insurance and Savings Authority;
  - Ministry of Finance (other functionaries with regulatory powers);
  - Ministry of Transport and Road Safety;
  - Ministry of Communications; and
  - Ministry of National Infrastructure, Energy, and Water Resources (including the Israel Water and Sewage Authority; the Public Utilities Authority (Electricity); and the Israel National Gas Authority);
- the applicable regulator may (or must) consider 'national security interests' when granting or denying such permits under its own authorising legislation; and
- the applicable regulator voluntarily submits an inquiry to the advisory committee.

ENTERING THE COUNTRY, CONT'D

That said, the Oversight Committee itself is not constituted by primary legislation and therefore operates somewhat informally (it was constituted by a Government (i.e. executive branch) Decision). It does not have independent powers and authorities, and its purpose is intended solely to serve as an advisory body to sector-specific regulators on FDI matters. Importantly, its rules, procedures, and working guidelines have not been made available to the public, nor any of its opinions. The reality is that if the Oversight Committee does not favour a particular transaction and provides a 'non-binding opinion' against or otherwise not in support of a transaction, then given the weight of the Prime Minister's Office (from where the Oversight Committee sits), the relevant Israeli regulator will more than likely conform with the advice provided and not permit a transaction to take place or otherwise will not provide or may remove licenses required for a transaction to be successful. Finally, it is important to note that there is no industry outreach by the Oversight Committee. Therefore, it is important for start-ups to be vigilant of whether their area of business or their technology may trigger this regime in the event of foreign direct investment and to seek the informal avenues at their disposal to help clear the investment ahead of time.

INTELLECTUAL PROPERTY

In Israel, the following Intellectual Property rights may be registered:

Patents

- **What is protectable?** In Israel, a patent can be granted for inventions, whether products or processes, in any field of technology provided that they: (i) are new (novel); (ii) are useful; (iii) can be used industrially; (iv) involve an inventive step.
- **Where to apply?** All registerable Intellectual Property can be registered through the relevant department of the Israeli Patent Office (ILPO), in this case the Patent Department.
- **Duration of protection?** The term of a registered patent in Israel is 20 years from the date of application.
- **Costs?** The official fee for filing a patent application in Israel is NIS 2,344 for the regular route for a national patent application; and NIS 4,757 for the PCT (Patent Cooperation Treaty) route for an international application (NIS 656 for transmittal fee and NIS 4,101 for search fee in the Israel Patent Office).
- **Employee invention?** The Israeli Patents Law, 1967, states that so long as there is no agreement to the contrary, the patent rights to an invention that was developed by an employee during, and in consequence of, his employment is owned by his employer. Under such Law, if there is no agreement determining whether an employee is entitled to compensation for such inventions, and under what terms, the matter will have to be decided by the Special Committee for Compensation and Royalties. Pursuant to recent jurisprudence, though, this right can be waived by the employee, with such waiver examined according to the general principles of contract law.

Trademarks

- **What is protectable?** In Israel, trademarks may be letters, numbers, words, images, symbols or other signs, or a combination of these, whether two or three dimensional.
- **Where to apply?** Trademarks in Israel can be registered either through the Trademarks Department of the Israeli Patent Office (ILPO) or by filing an international trademark application via the Madrid System (maintained by the ILPO) that designates Israel.
- **Duration of protection?** The term of a trademark in Israel is 10 years from the date of filing. Registration can be renewed without limit, for additional terms of 10 years each.
- **Costs?** The official fee for filing a trademark application in Israel in one class is NIS 1,904. Each additional class costs NIS 1,432. Handling fee for filing an application for an international trademark via the Madrid System is NIS 626.

INTELLECTUAL PROPERTY, CONT'D

Registered Designs

- **What is protectable?** A design right in Israel is an intellectual property right granting its holder protection for the appearance of a product or part of a product, composed of one or more visual characteristic of the product or of part of the product, including outline, color, shape, decoration, texture or the material from which they are made. A design will be eligible for protection as a registered design if it is novel and has an individual character. According to the Designs Law, 2017, "Product" may be a set of articles, packaging, graphic symbol and screen display (but not a typeface or computer program); Examples can include jewellery, clothes, toys, screen displays and furniture. A registered design grants the proprietor an exclusive right to perform certain acts (such as manufacture, sale or lease and distribution) with respect to the registered design and any other design which creates for the informed user a general impression that does not differ from the general impression created by the registered design.
- **Where to apply?** All registerable Intellectual Property can be registered through the relevant department of the Israeli Patent Office (ILPO), in this case the Designs Department.
- **Duration of protection?** The term of a registered design in Israel is 25 years from the date of application, subject to the payment of renewal fees.
- **Costs?** The official fee for filing a Design application in Israel is NIS 428.

The following Intellectual Property rights cannot be registered in Israel:

Copyright

- **What is protectable?** Copyright protection is available in Israel for "original works", which are literary works, artistic works, dramatic works or musical works, fixed in any form, and sound recordings. The author of a copyright must be able to demonstrate a minimal level of effort and creativity. By default, the employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed. In a work made pursuant to a commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly.
- **Duration of protection?** Copyright protection in Israel shall be in effect until the 70th anniversary of the death of the creator of the work. As copyright cannot be registered, it is often advised to add the © symbol.

Unregistered Designs

- **What is protectable?** To have protection over an unregistered design, such design must be novel and have an individual character. The design product must be offered for sale or be distributed to the public in Israel commercially by the holder of the design, or anyone on his behalf, including over the Internet, within six months of the date on which the holder of the design, or anyone on his behalf, first made public the design or the design product, in Israel or abroad. A holder of an unregistered design has the right to prevent any person from manufacturing for commercial use, a product which is identical in its design or that creates with an informed user the same general impression.
- **Duration of protection?** Protection for an unregistered design is for a 3-year term from first publication in Israel or outside of Israel.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

- **What is protectable?** Trade secrets are viewed as commercial information of every kind, which is not in the public domain or which cannot readily and legally be discovered by the public, the secrecy of which grants its owner an advantage over his competitors, provided that its owner takes reasonable steps to protect its secrecy. Israeli courts have ruled that the more the secret is susceptible to being disclosed, the greater the protective measures required. Therefore, the execution of non-disclosure agreements, restriction of access to trade secrets by physical or technological means and giving access to the trade secrets on a needs-only basis are all advisable methods to protect trade secrets.
- **Duration of protection?** Whilst there are appropriate protection measures in place and information has a commercial value, trade secret protection applies and is thus not limited by time.

Integrated Circuit Layouts

- **What is protectable?** The three-dimensional disposition of an integrated circuit if it is original. The owner of a topography shall have the exclusive right to do or to authorize others to do certain acts, such as to copy the topography or part thereof; to import, sell or otherwise distribute it for commercial purposes. Where a topography is created by an employee during and in consequence of his employment by his employer, the employer shall be the owner thereof.
- **Duration of protection?** The exclusive right shall expire on the earlier of the following dates: (1) at the end of 10 years from the date on which the topography or an integrated circuit in which the topography is incorporated were first lawfully sold or distributed commercially in Israel or outside of Israel; (2) at the end of 15 years from the date of creation of the topography.

DATA PROTECTION/PRIVACY

There are three main laws and regulations which govern data protection and privacy in Israel:

- **The Protection of Privacy Law, 1981 ("PPL")** – the main law in Israel which regulates the protection of privacy in general and the processing of personal data in computerized databases.
- **The Protection of Privacy Regulations (Transfer of Information to Databases outside the State's Boundaries), 2001 ("Transfer Regulations")** – regulations which govern the transfer of personal data from Israeli databases to databases outside of the country.
- **The Protection of Privacy Regulations (Data Security), 2017 ("DSR")** – the DSR govern the level of security to be assigned to computerized databases (based on specific parameters such as the sensitivity of the data, the number of data subjects and the number of individuals with access to the data or data systems) and the security measures that should be implemented to safeguard personal data maintained in computerized databases and the data systems (such measures include, inter alia, physical and environmental security, data access management, communication security, outsourcing of personal data, etc.).

The abovementioned law and regulations impose obligations such as databases registration/notification, transparency and consent, and also detail general principles such as lawfulness of processing, purpose limitation, data minimisation, proportionality and accountability. The Israeli Protection of Privacy Authority ("**PPA**") also occasionally publishes guidance which deals with specific matters including surveillance cameras, outsourcing, drones, biometric data etc.. Other notable sectors are the health, banking, finance and insurance sectors with respect to which regulatory requirements are set out under specific directives and circulars issued by the respective regulators, which determine specific arrangements applicable to the entities operating in the respective sectors, which are in addition to or similar to the requirements set out under the PPL and the regulations enacted thereunder.

DATA PROTECTION/PRIVACY, CONT'D

The PPL applies to "Data" and "Sensitive Data":

- "Data" is defined under the PPL as data relating to an identified or identifiable person ("identifiable person" is one who can be identified with reasonable effort, directly or indirectly, including through an identifying detail such as name, identification number, biometric identifier. Location data, online identifier, or one or more details relating to a persons' physical, health, economic, social or cultural status).
- "Special Sensitive Data" includes under the PPL personal data about a person's intimate family life, intimate affairs and sexual orientation, a person's health and medical data, genetic data, biometric identifier used or intended to be used to identify a person or verify a person's identity in a computerised manner, a person's origin, criminal history, political opinions, religious beliefs or worldview, certain personality assessments performed by professionals , certain transmission data and location data, payroll data and financial activity, personal data subject by law to confidentiality obligations.

Territorial application

The PPL (and the regulations enacted thereunder) is silent with respect to its territorial scope.

To-date, the Protection of Privacy Authority ("**PPA**") has not issued any specific well-established formal guidance in this regard.

Having said that, case law development in other areas of the Israeli law, as further detailed below, brings more legal certainty to the position that Israeli privacy legislation would apply to foreign entities depending on the specific circumstances of the matter.

In May 2024, the Israeli Supreme Court ruled on a case involving a major online travel platform, applying Israeli law (the Consumer Protection Law) ("CPL") to the platform's website, despite a foreign governing law clause (Singapore). The case arose when a petitioner claimed that the platform violated the CPL in its dealings with Israeli customers. The platform argued that, as a foreign business, it was not subject to Israeli law and sought to enforce its choice of law clause to avoid the CPL's applicability. The Court established a two-stage test for determining which law governs disputes between Israeli consumers and non-Israeli businesses. First, it applied Israeli conflict-of-laws rules to assess whether Israeli law applies, based on factors such as whether the platform operates an "Israeli website" (i.e., website dedicated to the Israeli market) or has an "activity in Israel", taking into account considerations such as turnover and market share and efforts to penetrate the Israeli market (e.g., marketing, customer support in Hebrew, accepting payments in Israeli currency). Second, if Israeli law applies, the Court determined whether to enforce a foreign law clause, ruling that such clauses would not be upheld if they circumvent mandatory provisions of Israeli law or unfairly disadvantage Israeli consumers or small businesses. The ruling noted that foreign law clauses could only be enforced in exceptional cases where a business demonstrates a legitimate need for a global policy that does not directly affect Israeli consumers' rights.

In addition, in a draft statement of opinion issued by the PPA on July 4, 2024 for public comments with respect to the interpretation of certain provisions of Israeli cross-border transfer regulations, the PPA noted in a footnote that there may be databases abroad which may be subject to the entire provisions of Israeli law, regardless of the fact that their controllers are not incorporated/registered in Israel, for example, due to their vast influence on Israeli data subjects.

In light of all of the above, there is a substantial probability that Israeli courts would rule that the Israeli privacy legislation applies to a foreign business, without data processing activities centered in Israel, but which falls under the scenarios detailed in the Agoda case.

DATA PROTECTION/PRIVACY, CONT'D

Territorial application, CONT'D

To the extent that the Agoda scenarios are not relevant to a specific matter, then it is likely that the Israeli privacy legislation will still apply to data processing operations based on various linkages to Israel and the strength and scope of such linkages under the specific circumstances, including: (i) are there Israeli data subjects involved; (ii) location of servers in which personal data is retained; (iii) identity of the owner / controller of the personal data; (iv) location of processing activities and whether any Israeli entity is involved in such activities (i.e. is a processor of the data based in Israel). The more linkages the operations have to Israel, the more likely that the Israeli privacy legislation would be applied with respect to it.

Regulator

The regulator responsible for the enforcement of the PPL is the PPA. The PPL empowers the PPA to supervise compliance with the provisions of the PPL and the regulations thereunder, to conduct both criminal and administrative investigations, to levy fines for breaches of the PPL, to issue preliminary opinions, etc.
In addition, the PPA operates an inspection unit that performs a cross-sectorial inspection to examine the implementation of the provisions of the PPL and the regulations promulgated thereunder, at all levels of the Israeli economy, on a sectoral and thematic basis.

Adequacy

It is also of note that, based on a 2011 decision, the European Union Commission has found Israel to maintain an adequate protection of personal data with regard to automated processing of personal data, making it one of the few non-EEA countries to which data can be exported without the requirements that may otherwise apply, such decision was reaffirmed in 2024.

In the context of such adequacy decision Israel adopted the **Privacy Protection Regulations (Instructions Regarding Data Transfers from the European Economic Area to Israel), 2023** that place additional requirements on owners of databases containing personal data originated from the European Economic Area.

ARTIFICIAL INTELLIGENCE

In December 2023, Israel's Ministry of Innovation, Science and Technology issued its first ever comprehensive policy on AI regulation and ethics (the "**AI Policy**"). The AI Policy provides, inter alia, that the need for specific AI regulation in a particular sector should be assessed by the appropriate sectoral regulator and that this is "favoured over the adoption of broad horizontal legislation". The AI Policy also proposed the establishment of an AI steering committee which would advise and coordinate between the different sectoral regulators in connection with AI regulation. It is worth noting that this proposed steering committee would not have enforcement powers or decision making powers.

As such, there is no specific regulatory regime for AI in Israel and there are no plans for such a regime in the forseeable future. However, the general restrictions, particularly under data protection law and copyright law apply.

In addition, in September 2024, Israel became a signatory to the Council of Europe's Framework Convention on AI and Human Rights, the first ever international treaty in the field. This treaty provides that AI systems must be used in a way that is compatible with certain fundamental principles (equality, human dignity, respect for data privacy etc.) and introduces a number of procedural safeguards. The treaty arguably lacks teeth (there is no specific enforcement mechanism) and so some have questioned how effective it will be in achieving its overarching goals.

ARTIFICIAL INTELLIGENCE, CONT'D

It is worth noting that in recent years, Israel's world-class tech eco-system has produced a number of cutting edge start-ups in the AI space and some of the world's leading companies in the field (e.g. Nvidia) have acquired companies or set up R&D hubs in the country. It remains to be seen whether, in the years to come, policy and legislation will be able to catch up with the exponential rise of AI in Israel's private tech sector.

EMPLOYEES/CONTRACTORS

General

- Generally, under Israeli law there is no requirement for a written employment contract (subject to certain exceptions). Employers are, however required to provide new employees with a written notification of certain employment terms (as specified in the relevant legislation) no later than 30 days after the date of commencement of their employment and to update them of any changes to this. There is also no requirement that this be in a certain language, so long as it is in a language which the employee can understand.
- Many aspects of Israeli labor and employment laws are regulated by legislation and extension orders (as defined below) that apply to all employees in Israel, and provide minimum mandatory entitlements. For example: minimum wage, annual leave, sick leave, travel expenses, recuperation pay, prior notice of termination and resignation, severance pay, and pension entitlement are all legal requirements. An "**extension order**" is created when a collective bargaining agreement between a union and an employers' organization is extended, in whole or in part, to additional groups of employers and employees, or certain fields of employment, and even to all employers in the economy, by force of an order of the Minister of Labour.
- The aforementioned statutory entitlements do not, generally, extend to an individual deemed to be an independent contractor rather than employee. It is important to note that should a 'contractor' be found by a competent Israeli court or public authority to be a de facto employee, then an employer may become liable to retroactively pay the individual all the financial benefits associated with the status of an employee, including vacation days, pension and severance contributions etc.
- Israeli law prohibits any discrimination in respect of employment which is based on the following grounds: gender; sexual tendencies; marital status; pregnancy, the undergoing of fertility or in vitro fertility treatment; parenthood; age; race; religion; nationality; country of origin; place of residence, views; party affiliation; the performance of reserve duty, or the duration or frequency of such reserve duty; and employees who are employed by manpower agencies. According to case law, the above is not a "closed" list.
- Discrimination in the workplace on the basis of disability is also prohibited. Discrimination in this respect includes a failure of the employer to make necessary accommodations due to the special requirements of the disabled person, which would enable the disabled person to perform the employment. Such accommodations include: adjustment of the workplace, its equipment, admission tests, training, and guidance. However, there is no duty to make accommodations which would impose an excessively heavy burden on the employer; i.e. one that is unreasonable in the circumstances, taking into account various relevant factors listed in the legislation.

EMPLOYEES/CONTRACTORS, CONT'D

Work for Hire Regime

- Employees: the basic rule under Israeli law is that the first owner of rights in inventions and copyrighted works created in the course of the employee's employment is the employer. However, the rule does not apply in a straightforward manner to know-how or trade secrets (although it is a general principle of employment relationships that trade secrets of the business are the property of the employer).
- Contractors: only the Copyright Law, 2007, refers to the notion of work for hire vis-à-vis contractors. In this respect, the Law prescribes with respect to ownership of a commissioned work, that it may be agreed upon by the parties "expressly or impliedly".

Termination

- In the event that a company wishes to terminate an employee, Israeli case law dictates that all employers must hold a hearing process prior to making a decision regarding the termination and that this hearing should inform the employee of the employer's reasoning prior to the jearing meeting and give them the opportunity to respond.
- In addition, there are certain groups in society who receive protection from termination by law, some of which are specific to Israel: (a) pregnant employees; (b) employees on maternity or paternity leave or those recently back from maternity or paternity leave in the 60-day period following their return; (c) employees undergoing fertility treatment or expecting to adopt children, becoming foster parents or becoming parents with the assistance of surrogacy; (d) employees on reserve duty with the Israel Defence Forces (and if the reserve duty exceeded two days the protection will also apply for thirty days thereafter); and (e) employees on sick leave. Termination of such employees may be entirely prohibited (as in the case of statutory materntity leave) or would require approval from the competent authority in Israel.

CONSUMER PROTECTION

Israeli consumer protection law is mainly governed by

1. the Israeli Consumer Protection Law 1981 (the "**Consumer Protection Law**") and the regulations enacted thereunder, protects consumers from misleading sales tactics and establishes various principles and requirements applicable to the sale of goods and services, including, inter alia, the prohibition on misleading consumers in material aspects of a transaction; rules regarding practicing unfair influence; rules regarding on-going transactions; transactions entered into remotely; indication of prices; disclosure of payment requirements; advertisements; "do-not-call" registry, etc.
2. The Israeli Penal Law 1977, provides, inter alia, for a general prohibition on lotteries, draws and raffles. Lotteries in Israel must be carried out in accordance with the Israeli Penal Law and the general permit for the conduct of lotteries for commercial advertisement issued by the Israeli Ministry of Finance.
3. The Communications Law (Telecommunications and Broadcasting) 1982 (the "**Anti-Spam Law**"), prohibits sending "advertisements" by certain means (including, inter alia, email, SMS/WhatsApp) without obtaining the recipient's prior explicit or recorded consent (i.e., on an opt-in basis). In addition, the Anti-Spam Law includes certain mandatory and formal requirements vis-à-vis the communication of permitted advertisements (e.g., the advertising message must state that it is an advertisement, it must inform the recipient of its right to decline to receive advertisements and a mechanism to send the advertiser a notice in this regard, i.e., an "unsubscribe" mechanism, it needs to include certain details regarding the advertiser, etc.).
4. The Israeli Standard Contracts Law, 1982 regulates the matter of standard contracts (a contract, the terms of which have been pre-determined by one party in order for them to be used in several agreements between that party and an undetermined and unspecified number of other parties) The consequence of an agreement being determined to be a standard contract by the court is that the court might strike out unfairly prejudicial terms contained within the contract.

CONSUMER PROTECTION, CONT'D

Examples for such prejudicial terms include:

- A condition denying or limiting a right or remedy available to the customer ("a person to whom a supplier offers an engagement to which a standard contract applies, whether such customer is the receiver or the giver of anything") under law.
- A condition imposing the burden of proof on a person who would not have to bear it but for that condition.
- A condition which denies or limits the customer's right to make certain pleas before judicial authorities or that determines that any dispute between the supplier and the customer will be settled in arbitration.
- A provision which relieves the supplier, fully or partially, of a liability which the supplier would have to bear under law if such condition was not included in the contract.
- A condition which requires a customer to confirm that the customer read the contract, or to declare that they have committed any act, or to approve the customer's knowledge concerning a certain matter or fact, excluding information provided by the customer to the supplier in the contract.

TERMS OF SERVICE

Generally, the contractual relationship between an online vendor and the end consumers would be treated as an ordinary commercial contract. Online terms are generally viewed as enforceable under Israeli law, subject to aspects involving a standard contract, as further discussed above. Nevertheless, when entering into an agreement that is reviewed and signed online, companies should ensure that the signer has the opportunity to review the terms of the agreement beforehand and that the signer provides their consent to the agreement (such consent should be retrievable for evidentiary purposes), subject to the restrictions set forth in the Standard Contracts Law, as further discussed above.

The Consumer Protection Law provides certain provisions that must be included for online sale agreements made remotely (S14C of the Consumer Protection Law) or ongoing transactions (Section 13(D) of the Consumer Protection Law).

Additional terms may need to be specified depending on the type of product or service being provided (for example, in the case of medical products or services).

In addition, the Consumer Protection Law provides that in a remote marketing stage (i.e. when there is no physical presence of the parties, this could include marketing through a sales website, app, etc.), a dealer must disclose to the consumer at least the following: (1) the dealer's name, ID number and address in Israel and abroad, as applicable; (2) the main characteristics of the services/product; (3) the price of the services/product and the possible payment terms; (4) when and how the services/product will be supplied; (5) the period during which the offer will be in effect; (6) details regarding warranty (if applicable); and (7) details regarding the consumer's right to cancel the transaction. In addition, any material information should be included on the terms of use.

TAX/FUNDING

Corporate Income Tax: Israeli companies are subject to a flat tax at a rate of 23%.

Withholding Tax on Dividends: Dividends paid by an Israeli company to its non-resident shareholders are subject to withholding tax ("WHT"). The applicable rate is 25% although a 30% rate can apply if an individual controlled more than 10% of the company at any point in the 12 month period prior to the distribution of the dividend. These rates can be reduced by an applicable incentive or treaty regime.

Withholding Tax on Interest: Interest payments paid by an Israeli company to non-resident companies are subject to WHT at the rate of 23% for companies and 25% for individuals, though these rates may be reduced in an applicable tax treaty.

Withholding Tax on Royalties: Royalties paid by an Israeli company to non-resident companies are subject to WHT at the rate of 23% for companies and 25% for individuals, though these rates may be reduced in an applicable tax treaty.

Capital Gains Tax: Under domestic law, non-Israeli residents are generally exempt from tax on capital gains derived from investments in securities of Israeli companies. The exemption is conditioned, however, among other things, on the non-Israeli resident not maintaining a "permanent establishment" (or PE) in Israel to which the capital gains are attributable

VAT: Generally, entrepreneurs have to charge Israeli VAT at a rate of 18% for the supply of goods or services but are also entitled to deduct input VAT for the supplies of goods and services they receive.

The Israel Innovation Authority ("**IIA**") offers funding to Israeli companies based on the Law for the Encouragement of Research, Development and Technological Innovation in Industry Law 1984, the regulations promulgated thereunder and the rules published by the IIA (the "**R&D Law**"). In general, the IIA does not take equity interests in the company which has received funding but is entitled to payment of royalties, plus interest, relating to income generated from the product or service based on IIA funded-know how or as determined in the approval documents. The goal of the R&D Law is mainly to create economic benefit to the Israeli economy through R&D and innovation in the Israeli ecosystem. As such, there is a prohibition on the transfer, in any manner, of IIA-funded know-how outside of Israel or the grant of rights to non-Israeli residents (for example by way of assignment, grant of manufacturing or R&D licenses, grant of access etc.), except if a transfer approved by the IIA and subject to payments to the IIA (capped at 6 times the IIA funding received and the interest). Sale of products or the grant of rights to sale or market products is permitted without IIA approval. Investment and shares transactions do not require the approval of the IIA. Non-Israelis who will become an "interested party" in a funded company (holding at least 5% in the company or have the right to appoint a director) will have to sign a standard undertaking towards the IIA acknowledging that the company is IIA-funded and subject to the applicable laws. In M&A transactions non-Israeli buyers usually consider whether to ask the company to buyout the IIA as part of the acquisition (by way of obtaining IIA transfer approval). In such a case, the redemption fee to be paid to the IIA for such approval will be a commercial issue between the seller and the buyer.

In addition to the IIA regime described above, there are certain bodies which offer funding for R&D activities between Israeli companies and certain other jurisdictions. The most prominent of these regimes are those offered by the European Innovation Council's EIC Accelerator Program and the BIRD Foundation.

WHAT ELSE?

- **Employee Incentives.** One of the key ways of incentivizing Israeli employees and officers is to grant equity based incentives under the "capital gains route" set out under Section 102 of the Israeli Income Tax Ordinance [New Version] 1961 (the "**Capital Gains Route**"). Generally, under the Capital Gains Route, subject to compliance with various terms and conditions, Israeli employees and officers (the "**Participants**") will be able to benefit from a lower tax rate (capital gains rate of 25%) on their gain upon sale of shares issued in connection with awards granted under the Capital Gains Route as opposed to ordinary income tax (top marginal rate of 47%) plus any surtax and social security. Under the Capital Gains Route, the granting company is required to comply with various procedural rules, including but not limited to filing the equity plan for approval by the Israeli Tax Authority prior to any grant, the appointment of an Israeli trustee and deposit of grant agreements and corporate approvals with the Israeli trustee within specific timelines. One of the basic requirements from the Participants is that they sell their shares after the lapse of a two-year period following the date of grant. It is common practice in Israel to grant equity awards under the Capital Gains Route and almost all companies operating in Israel grant awards under such tax route. It is highly recommended to obtain specific advice prior to granting any awards in Israel due to the different tax arrangement applicable under Israeli law.
- **Tax Benefits for Preferred Technology Enterprises.** The Israeli Law of Encouragement of Capital Investments 1959 provides that an Israeli company may benefit for certain significant tax benefits (dividends, withholding tax and capital gains) if it meets the criteria to be a "Preferred Technology Enterprise". In general, companies will only be eligible if: (1) the IIA has approved the company as being a company that promotes innovation, and (2) if the company is not part of a group of companies with annual aggregate revenues of more than NIS 10 billion, and (3) the company meets certain financial thresholds (for example, that the company's average R&D expenses are over a three year period more than or equal to 7% of the company's total revenues or exceed NIS 75 million per year).



ITALY

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LEGAL FOUNDATIONS

Italy has a civil law system. The paramount legal sources are, the laws, codified in written codes, statutes, and decrees.

The hierarchy of the legal sources is the following:

- The Constitution of the Republic of Italy and other constitutional laws;
- The primary sources, which include the Government laws, for example, the codes, and the regional laws;
- The secondary sources, which include Government, regional or local statutes or regulations;
- The uses and customs.

The most relevant source of private law is the Italian Civil Code.

In addition, there are many laws, legislative decrees, or law decrees for different sectors, for example, the Law Decree no. 179 of October 18, 2012 (hereinafter "**Startups Decree**"), as subsequently amended, which includes specific provisions for startups.

The most important source of criminal law is the Italian Criminal Code.

Also, in this field there are a certain number of legislative decrees or law decrees which provide for the punishment of different offences not included in the Italian Criminal Code.

In the Italian system, contrary to common law systems, case law is not binding upon other courts, however, judges refer to judicial precedents (especially those of the Supreme Court) in order to rule upon a case.

ITALY

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

In Italy, there are specific provisions for "innovative startups", i.e. newly-established companies with a strong nexus to technological innovation.

Innovative startups can operate in any business area, except for agency and consultancy activities.

Article 25 of the Startups Decree provides a legal definition of "innovative startup", which can have the form of unlisted limited liability companies and cooperatives.

The requirements for an innovative startup are as follows:

- It is newly established or has been incorporated for less than 5 years;
- It is a micro, small or medium-sized enterprise (SME) as defined in the European Commission Recommendation of 6 May 2003;
- It has its headquarters in Italy, or in another EU/EEA Member State provided that it has a production facility or a branch in Italy;
- Its annual turnover is lower than euros 5 000,000.00; It has not and it does not distribute profits;
- The corporate purpose concerns mainly, or exclusively, the development, production and commercialisation of innovative products or innovative high-tech services;
- It is not the result of a company merger or split-up, or of a business or branch transfer;
- Finally, it meets at least one of the following innovation-related requirements:
    - Research and development expenditure corresponds to at least 15% of the higher value between turnover and annual costs (as per the latest statement of accounts);
    - The staff consists of at least 1/3 of PhDs, PhD students or researchers, or at least 2/3 of staff hold a master's degree;
    - The company is the owner or licensee of a registered patent (or it has filed an application for an industrial property right), or it owns an original registered software.

To maintain startup status after the third year (and up to the fifth) from incorporation, at least one on the following requirements must be met:

- An increase to 25% of the percentage of research and development expenditure;
- The signing of at least one experimental agreement with the Government;
- An increase in revenues from the company's core business or in employment of more than 50% from the second to the third year;
- The creation of an equity reserve of more than euros 50,000 through a convertible loan or a capital increase and an increase to 20% of the percentage of research and development expenditure;
- The obtaining at least one registered patent.

The term of five years for the permanence in the special section of the Companies' House Register can be extended for the "scale-up" phase for additional periods of two years (up to a maximum of four additional years), if at least one of the following requirements is met:

- A capital increase with a share premium subscribed by a collective investment scheme, amounting to more than 1 million euros for each extension period;
- An increase in revenues from the company's core business of more than 100% per year.In order to set up an innovative startup, entrepreneurs can choose between different forms of limited companies:

Limited Liability Company - LLC (società a responsabilità limitata – SRL)

It is certainly one of the most common forms for carrying on a business in Italy.

The shareholders (natural or legal persons) are not personally liable for the company's debts, even if they have acted on behalf of the company.

CORPORATE STRUCTURES, CONT'D

Limited Liability Company - LLC (società a responsabilità limitata – SRL), CONT'D

The share capital of an "SRL" may be:

- Equal to, or greater than, euros 10,000. In this case, at least 25% of the share capital shall be paid at the time of incorporation, but if the company has a sole shareholder, the entire share capital needs to be paid in.
- Less than euros 10,000 but not less than 1 euro. In this case, the share capital shall be fully paid at the time of incorporation. In the event of the establishment with share capital of less than euros 10,000, an annual mandatory minimum capital reserve requirement applies: at least one-fifth (20%) of the net profits must be allocated to a legal reserve until the cumulative amount of the initial capital and of the subsequent capital reserves reaches euros 10,000.

The articles of association shall be in the form of a notarial deed which must be recorded in the Companies' House Register.

The rules for corporate governance are flexible. An "SRL" may have a sole director or a board of directors (whose members may act jointly or separately on behalf of the company).

Simplified Limited Liability Company - SLLC (società a responsabilità semplificata - SRLS)

It is a form of "SRL" introduced by the Government to encourage entrepreneurship (especially youth entrepreneurship).

The shareholders may only be natural persons (not companies or other entities), and the company can have a sole shareholder.

The share capital of "SRLS" shall be a minimum of euro 1 and may not exceed euros 9,999. The entire share capital needs to be paid in at the time of incorporation.

The articles of association shall be in the form of a notarial deed and must follow a standard template (according to a model provided by the Government) and cannot be amended.

Limited Partnership Company (società in accomandita per azioni - SAPA)

This corporate model has never been popular. It has been used in a few cases as a "family safe".

It is a company in which two different groups of shareholders coexist:

- Limited partners (soci accomandanti) are excluded from directorships and are liable only to the extent of their contribution;
- General partners (soci accomandatari) are directors by right and personally and fully liable for the company's debts.

In the "SAPA" participation in equity is represented by shares and the managing authority is attributed to directors with unlimited liability, even if only subsidiarily, for the company's debts.

The governance in the "SAPA" is substantially similar to that of the "SPA" model. All the general partners are members of the board.

There are special rules laid down for the appointment and removal of auditors or members of the oversight body.

CORPORATE STRUCTURES, CONT'D

Public Limited Company - PLC (società per azioni - SPA)

It is certainly the main business company model suitable for large investments.

The two key features of this form of company are the limited liability of all shareholders and the division of the capital into shares.

The "SPA" has a minimum share capital of euros 50,000 , of which at least 25% shall be paid to the directors at the time of the incorporation, but if the company has a sole shareholder, the entire share capital needs to be paid in.

The "SPA" is set up by public deed before the Public Notary.

According to the rules of corporate governance, the company may be organised under three different models:

- The traditional model – the sole director or the board of directors (which may be different from the shareholders) are entrusted with the administration of the company;
- The single-tier model (of Anglo-Saxon derivation) – the administration and control of the company are vested in a board of directors and a committee set up within it;
- The two-tier model (of German origin) – a management board elected by the supervisory board (elected by the shareholders) is entrusted with the administration of the company.

The board of auditors is the oversight body of corporations that adopt the traditional system: it has the task of controlling the management of the company and ensuring compliance with the law and the articles of association.

ENTERING THE COUNTRY

The foreign direct investment regime in Italy, the so-called "**Golden Power**" regime, allows the Italian Government to scrutinise transactions that concern "strategic" industrial sectors and grants it the power to apply conditions to such transactions or even veto them in the case of a threat to the national interests.

As for the typology of foreign investments that fall within the field of application of the Golden Power regime, they include the acquisition of stakes (such as shares or quotas) as well as the resolutions, determinations or decisions of entities involving strategic assets. Such corporate acts may include the transfer of strategic assets, the relocation of the relevant entity, the amendment of the corporate object, the winding down of the company or an amendment of the company's articles of association affecting voting rights. The regime also extends to certain asset disposals and, in some circumstances, to "green field" investments.

The regulation of the Golden Power in Italy was first introduced by Law Decree no. 21 dated March 15, 2012 (hereinafter the "**Golden Power Decree**") and has been amended and integrated several times to encompass emerging strategic sectors.

According to the Law Decree no. 21/2022 entered into force on March 22, 2022, the application of the Golden Power has been extended to a number of industrial sectors deemed to be strategic for the national economy, especially in relation to the 5G and cloud services sectors. For these technologies, the review mechanism has evolved: initially requiring case-by-case screening of purchases, it now mandates that national operators notify their annual procurement plans for 5G and cloud assets, allowing for a broader supervisory overview.

In the light of the above-mentioned framework, the Golden Power provisions could apply to transactions involving innovative startups.

ENTERING THE COUNTRY, CONT'D

In fact:

1. The notification obligation is triggered by qualitative factors rather than purely quantitative ones like turnover. The local nexus is established by the mere presence of a strategic asset or activity in Italy, regardless of the company's size. For acquisitions of stakes in companies active in the defence and national security sectors, the threshold is as low as 3% of the share capital, with subsequent notifications required for exceeding 5%, 10%, 15%, 20%, 25%, and 50%. For other strategic sectors, the thresholds may vary. For instance, non-EU entities must notify all determinations that result in their acquisition of a stake higher than 10% if the investment's overall value is at least euros 1 million. EU entities must generally notify such determinations only when they lead to the acquisition of control. Crucially, the Government may review transactions even below these thresholds if they are deemed to confer "significant influence" over the target, especially if the acquirer is considered "at risk" (e.g., controlled by a third-country government). The rules also explicitly apply to indirect acquisitions to prevent circumvention through complex corporate structures.
2. the involved sectors are, typically, the ones where startups operate. Artificial intelligence, semiconductor, dual-use technology, cloud computing and 5G space technology, nuclear and quantum energy, and farming technology have been in the spotlight of the Italian Government, as well as other non-digital critical infrastructures).

According to the notification procedure, the acquiring entity or the company adopting the relevant resolution must notify the Government.The deadline for notifying resolutions, decisions, and determinations is 10 days from their adoption and, in any case, before they are implemented. For acquisitions of stakes, the notification must be made "timely", as a standstill provision applies, suspending voting rights and other administrative rights until the review period expires.

The Government can use its power to apply special conditions or to veto the transaction no later than 45 days from receipt of the notification (this period could be suspended if additional information related to the transaction is requested).

In May 2022, the Government adopted simplified notification measures and also introduced a pre-notification procedure, which potentially interested parties can use to receive a preliminary assessment of the applicability of the Golden Power Decree to the specific transaction.

Failure to comply with notification obligations or with Government - imposed conditions (if any) may be sanctioned with a fine up to 1% of the total annual worldwide turnover of the previous year.

ITALY

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademark

What is protectable? Any sign used to identify the products / services of a company and to distinguish them from those of the other companies.

All the signs, in particular words, including names of people, or drawings, letters, figures, colors, the shape of the product or its packaging, or sounds, provided that such signs are suitable for distinguishing products or services of one company from those of other companies.

Where to apply? This depends on the protection you want to grant. Trademarks can be filed with:

1. the Italian Patent and Trademark Office (Ufficio Italiano Brevetti e Marchi – UIBM);
2. the European Union Intellectual Property Office (EUIPO);
3. the World Intellectual Property Organization (WIPO).

You can submit an application in three different ways: by filling in and submitting an online form, by delivering a filled-in form to the Chamber of Commerce (Camera di Commercio), or by sending a form to the Ministry of Enterprises and Made in Italy.Once the application has been received, the UIBM shall verify that the trademark meets the requirements set by the law. With the publication in the trademark bulletin (Bollettino Marchi), the three-month opposition period begins. If no opposition is filed, the registration process is completed.

Duration of protection? The trademark registration is valid for ten years and may be renewed for further ten-year periods.

Costs? To file an application for a trademark registration you have to pay administrative charges and, where applicable, stamp duties. The exact amounts vary depending on the number of classes of goods and services claimed and the application method.

Patents

What is protectable? A Patent is a title that grants to the owner an exclusive exploitation of an invention, for a limited period of time, consisting of the right to use it and make a commercial use of it, prohibiting other persons to do the same.

Only technological innovations with industrial application (industrial inventions, utility models and new plant varieties) are patentable.

Where to apply? Depending on the protection you want to grant, patents can be filed with:

- the Italian Patent and Trademark Office (Ufficio Italiano Brevetti e Marchi – UIBM);
- the European Patent Office (EPO);
- the World Intellectual Property Organization (WIPO).

Procedure for UIBM registration is the same mentioned for trademarks.

According to some recent amendments to Article 59 of the Industrial Property Code (Codice della Proprietà Industriale), the same invention can be protected by an Italian and a European Patent, that can co-exist.

Duration of protection? Patent registration is valid for twenty years (ten for utility models).

Costs? Filing fees are different according to the type of patent (for invention or for utility model) and the selected procedure for application.

INTELLECTUAL PROPERTY, CONT'D

Design and Model

What is protectable? Designs or models mean the appearance of the entire product (or of a part of it) which results, in particular, from the characteristics of the lines, contours, colors, shape, surface structure and/or materials of the product itself and/or its ornament, provided they are new and have individual character. Protection concerns the external appearance as a whole and unwritten. If there are writings, these are not protected.

Where to apply? Protection is valid only in the country to which it is requested. In addition to submitting the application for protection in Italy (to the UIBM offices), it is possible to request protection with validity throughout the EU with a request to EUIPO, or to request protection in many foreign countries by directly submitting an application to WIPO.

Procedure for UIBM registration is the same mentioned for the trademarks.

Duration of protection? The protection period of designs and models is five years from the date of the presentation of the application and can be renewed for five-year periods, up to twenty-five years.

Costs? Filing fees are different according to the type of design or model filed.

Copyright

What is protectable? According to Article 2575 of the Italian Civil Code and to the Law no. 633 of April 22, 1941 (hereinafter the "**Copyright Law**"), a work which is the expression of its author's creativity can be protected by copyright.

The Copyright Law protects literary, artistic, musical, architectural, theatrical, and cinematographic works, and also computer programs and databases with creative character, as well as industrial design works that possess creative character and artistic value in themselves.

While copyright holders are typically natural persons, the law now explicitly clarifies that works created with the assistance of artificial intelligence tools are also protected, provided they are the result of the author's human intellectual work. This confirms that the human creative contribution remains the essential element for protection.

Where to apply? Differently from patents and trademarks, to obtain copyright there is no need of a filing, since it is sufficient being able to prove to be the author of the work and to have created it before others.

In order to give evidence of the authorship of the work, it is advisable to file an application to certify the date with the Italian SIAE (Società Italiana degli Autori ed Editori). The SIAE certifies the filing which obtains a number and a date of filing, but it does no searches concerning the content of what is filed.

To make application for registration it is necessary to file a copy of the work (on a paper document or digital support) with a statement of authorship. Deposit has a duration of five years and can be renewed upon termination.

Duration of protection? According to Article 25 of the Copyright Law, the duration of copyright protection lasts for the author's whole life and for seventy years following his death.

Costs? Filing fees of SIAE are different. For a natural person not registered yet, the costs are in the region of euros 150; for a legal person not registered yet, the fees are in the region of euros 290. For startups less than two years old, registration is totally free.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

What is protectable? Trade Secret provides a type of protection which is different from the one granted by trademarks and patents. It focuses on the information related to productive activity or to business organisation which meets the following requirements:

1. information is secret (it means that it is not commonly known or easily accessible in the relevant business field);
2. information has a commercial value;
3. information is protected by security measures to keep it secret.

Where to apply? To protect the trade secret, it is not necessary to publish the invention or to register it with the UIBM. In Italy, trade secrets are protected by the Industrial Property Code. Article 98 of the Industrial Property Code lists protectable information: company information, industrial / marketing technical expertise, which are typically subject to the holder's control.

Duration of protection? The relevant protection is not limited in time.

Costs? There are no registration costs.

DATA PROTECTION/PRIVACY

Since May 2018 the General Data Protection Regulation (GDPR) applies in Italy as in the other Member States of the EU.

On September 19, 2018 entered into force Legislative Decree no. 101/2018 introducing specific provisions for the adaptation of the national legislation to the provisions of the GDPR and amendments to the Italian Privacy Code.

The relevant provisions may be summarized as follows:

Legal basis
In Italy, the legal basis provided for in Article 6, (3) letter b) of the GDPR consists of a law or regulation or general Government acts. The processing of personal data by the Government is also permitted if necessary for the fulfillment of a task carried out in the public interest or for the exercise of public powers attributed to them. In any case, when data are processed by a public authority, it is forbidden to publish or disclose news and images that could make a minor identifiable, even if the minor is involved in legal proceedings, except in cases where the minor is involved in criminal proceedings.

Age of consent
According to Article 2 quinquies of the Italian Privacy Code, a child over the age of fourteen may consent to the processing of his/her personal data in relation to the direct offer of Information Society services.

Processing of data on criminal offences and convictions.
The processing of data relating to the offences or criminal convictions that does not take place under the control of public authorities is permitted only if authorized by a law or, in the cases provided for by law, by a regulation, which provides appropriate guarantees for the rights and freedoms of the data subjects.

Without prejudice to Article 8 (1) of the GDPR, for children under the age of fourteen, consent is only valid if provided by the person exercising parental responsibility.

Data for journalistic purposes
The Italian Privacy Code contains a specific regulation regarding the processing of personal data for journalistic purposes.

In particular, Article 137 of the Code provides that personal data, including those referred to in Articles 9 and 10 of the GDPR, may also be processed without the consent of the data subject, provided that the deontological rules referred to in Article 139 of the Code are respected.

DATA PROTECTION/PRIVACY, CONT'D

Research

According to Article 105 of the Italian Privacy Code, personal data processed for statistical or scientific research purposes may not be used to make decisions or take measures relating to the data subject, nor for other purposes. Statistical and scientific research purposes must be clearly determined and made known to the data subject, in the manner set out in Articles 13 and 14 of the GDPR.

Article 110 (1) of the Italian Privacy Code, as recently amended, deals with cases in which the processing of health data for the purposes of medical, biomedical and epidemiological research does not require the consent of the data subject when informing the data subjects is impossible or involves a disproportionate effort, or is likely to render impossible or seriously impair the achievement of the research purposes.

In these cases, the data controller is requested to be compliant with the guarantees provided by the Italian Data Protection Authority in resolution no. 298 of 9 May 2024 (the data controller specifies and documents, in the research project, the reasons why it is not possible to obtain the consent of the data subject (for data relating to deceased subjects or subjects who cannot be contacted, the controller carries out and publishes an impact assessment pursuant to Article 35 of the GDPR).

Employees Data

The Italian Privacy Code contains specific rules on the processing of data in the context of the employment relationship.

Article 111 bis provides that if an uninvited CV is received with a view to possible recruitment, the information referred to in Article 13 of the GDPR shall be provided when the respective data subject is first contacted thereafter.

Article 113 of the Italian Privacy Code prohibits any investigation or processing of data or pre-selection of workers, even with their consent, based on personal beliefs, trade union or political affiliation, etc.

Article 114 of the Italian Privacy Code refers to the "Statuto dei lavoratori" and sets a general prohibition on use of audio-visual and other technical equipment for purposes of controlling the activity of employees.

Article 115 protects the working conditions, integrity and personality of the domestic or remote worker.

Article 4 of the Italian Legislative Decree, no 104 of June 27, 2022 (also known as "**Transparency Decree**") identified specific information obligations for the employer in the event of the use of automated decision-making or monitoring tools, used to provide information (i) relevant for the purposes of recruitment or assignment, management or termination of the employment relationship, assignment of tasks or duties, or (ii) affecting the monitoring, assessment, performance and fulfilment of the contractual obligations of employees.

Additional information includes: (i) the aspects of the employment relationship that are affected by the use of automated decision-making or monitoring systems; (ii) the operation of such systems; (iii) the main parameters used to program or train automated decision-making or monitoring systems, including performance evaluation mechanisms; (iv) the control measures adopted for automated decision-making or monitoring systems; (v) the level of accuracy, robustness and cybersecurity of the automated decision-making or monitoring systems and the metrics used, as well as the potentially discriminatory impacts of those metrics.

Legislative Decree 24/2023, concerning the protection of persons who report violations of Union law and national regulations (hereinafter the "**Whistleblowing Decree**"), has introduced further guarantees relating to the protection of employee data. According to Article 12 (2), the identity of the whistleblower and any other information from which his/her identity may be directly or indirectly inferred cannot be revealed without the express consent of the whistleblower to persons other than those competent to receive or follow up on reports and expressly authorised to process such data.

Article 2 undecies of the Italian Privacy Code has been amended accordingly, providing that the rights referred to in Articles 15 to 22 of the GDPR cannot be exercised by way of a request to the data controller or by way of a complaint pursuant to Article 77 of the Regulation if the exercise of these rights may result in actual and concrete harm to the confidentiality of the identity of whistleblower.

DATA PROTECTION/PRIVACY, CONT'D

Biometric data.
Law Decree 139/2021 (known as the "Capienze Decree") introduced enhanced measures regarding the processing of biometric data, providing that the installation and use of video surveillance systems with facial recognition systems operating through the use of biometric data in public places or places open to the public, by public authorities or private individuals, are not allowed until the entry into force of a legislative framework on the matter.

Limits do not apply to data processing carried out by judicial authorities in the exercise of their judicial functions or by public prosecutors.

For the prevention and repression of crimes or the execution of criminal punishment a prior approval from the Italian Data Protection Authority (Autorità Garante per la protezione dei dati personali) is required.

DPO.
The Italian Privacy Code provides that the DPO is also appointed in relation to the processing of personal data carried out by judicial authorities in the exercise of their functions.

Fines.
In determining the sanction pursuant to Article 83 (2) of the GDPR, the Italian Data Protection Authority shall also take into account any institutional communication campaigns aimed at promoting awareness of the right to the protection of personal data, carried out by the offender prior to the commission of the violation.

Data from public registers.
With regard to the processing of data contained in public registers and professional registers, the Italian Privacy Code provides that, if requested by the interested party, the professional association may provide third parties with news or information relating to special professional qualifications not mentioned in the register, or the availability to take on assignments or to receive scientific information material also relating to conferences or seminars.

The Italian Data Protection Authority (Autorità Garante per la protezione dei dati personali) is an independent authority set up to protect fundamental rights and freedoms in connection with the processing of personal data.

ARTIFICIAL INTELLIGENCE

The Italian regulatory framework on artificial intelligence is primarily based on Law no. 132 of 23 September 2025, which complements and implements the EU Regulation 2024/1689 ("**AI Act**"). The legislation adopts a human-centred and risk-based approach, aiming to promote trustworthy AI while safeguarding fundamental rights, economic stability and social interests. Core principles include transparency, proportionality, data protection, non-discrimination, cybersecurity, and meaningful human oversight throughout the lifecycle of AI systems. Importantly, the Italian law does not introduce additional substantive obligations beyond those already established by the AI Act, thereby ensuring regulatory consistency across the European market.

Governance is entrusted primarily to two national authorities: the Agency for Digital Italy (AgID), responsible for innovation promotion and conformity procedures, and the National Cybersecurity Agency (ACN), which exercises supervisory and enforcement powers.

The framework also regulates specific contexts such as employment, requiring transparency towards workers when AI systems are used in organisational or decision-making processes.

From a startup perspective, the legislation combines compliance obligations with innovation-oriented support measures. Public authorities are tasked with facilitating access to high-quality datasets, encouraging collaboration between businesses, universities and research centres, and fostering a competitive AI market. A particularly significant feature is the introduction of regulatory sandboxes jointly managed by AgID and ACN, enabling startups to test AI solutions under regulatory supervision before market deployment, thereby reducing legal uncertainty and compliance costs.

ARTIFICIAL INTELLIGENCE, CONT'D

Additional opportunities arise from public procurement policies favouring secure and transparent AI solutions with local data governance, as well as investments in education and advanced digital skills. Overall, the Italian implementation of the AI Act seeks to balance regulatory safeguards with innovation incentives, creating a structured yet supportive environment for AI-driven startups.

EMPLOYEES/CONTRACTORS

In Italy, employment relationships are regulated by the applicable national collective bargaining agreement (Contratto Collettivo Nazionale del Lavoro – CCNL) for the different sectors. General principles about the rights and obligations of employers and employees are included in the Law no. 300 of May 27, 1970 (Statuto dei Lavoratori) and, with specific regard to individual dismissals, in Law no. 604 of July 15, 1966.

The labour regulations do not apply to contractors or consultants engaged by a company, which is allowed to enter into different agreements according to the Italian Civil Code provisions.

The Italian regime for employment termination is strongly protective of employees.

Typically, employers can terminate an open-ended employment agreement on the following grounds:

- Just cause (giusta causa): the employer fires the employee because of misconduct. This is defined by Article 2119 of the Italian Civil Code as a cause so serious that it does not allow for the continuation of the employment relationship, even on a provisional basis. It implies a severe breach of the employee's obligations that irreparably undermines the relationship of trust with the employer.
- Justified reasons (giustificato motivo): This category is further divided into: (i) Subjective Justified Reason (giustificato motivo soggettivo) which consists of a "notable breach" of the employee's contractual obligations, which is less severe than a just cause but still serious enough to justify dismissal with notice; (ii) Objective Justified Reason (giustificato motivo oggettivo) when the termination of the employment relationship is related to business reorganisation, more precisely for "reasons concerning the production activity, the organisation of work and its proper functioning".

Specific labour provisions apply to innovative startups. The most important of those are listed below:

- **Salary.** Without prejudice to a minimum salary set down in the related CCNL, the parties may agree on complete autonomy over the fixed and variable components of salary. Those components may be agreed upon, for example, based on the efficiency or profitability of the employee or other performance objectives.
- **Work for equity.** Innovative startups can reward their employees with equity participation instruments (such as stock options), and external service providers through work for equity schemes. This mechanism is supported by a favourable tax and social security regime provided by Article 27 of the Startups Decree. The stated purpose of this legislation is to "incentivize and build loyalty among employees, collaborators, and directors" and to "facilitate the acquisition of qualified work or services". Under this regime, the income derived from the allocation of such financial instruments or the exercise of related options does not form part of the taxable income for the recipient, subject to certain conditions.

CONSUMER PROTECTION

In Italy, consumer's rights are protected by the provisions of the Italian Civil Code and of the Legislative Decree no. 206 of September 6, 2005, hereinafter the "Consumer Code" (Codice del Consumo).

All the companies (even innovative startups) shall comply with the rules set in the aforementioned laws concerning unfair business-to-consumer commercial practices.

The Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato – AGCM) is the authority entrusted with powers to enforce the laws either ex officio or following claims by consumer and consumer associations.

Some of the most relevant provisions regarding consumer protection law are the following.

General information obligations.
The Consumer Code imposes minimum information requirements for products intended for consumers. The packaging must clearly and legibly display information regarding: the legal or commercial name of the product; the name, company name or trademark and the registered office of the producer or an importer established in the EU; the country of origin, if located outside the European Union; the possible presence of materials or substances that may cause harm; the materials used and the processing methods, if they are decisive for the quality; instructions, precautions, and intended use, where useful for the safety and enjoyment of the product.

Price information
In order to improve consumer information and facilitate price comparisons, the products offered by traders to consumers must, subject to limited exceptions, indicate the unit price as well as the selling price.

From 1 April 2025, producers who place on the market, including through distributors operating in Italy, a consumer product which, while maintaining the previous packaging unchanged, has undergone a reduction in the nominal quantity and a related increase in the price per unit of measurement attributable to them, must inform the consumer of the reduction in quantity.

A further measure introduced in Italian law to protect consumers stipulates that any announcement of a price reduction must indicate the lowest price applied by the trader in the thirty days prior to the implementation of the reduction.

Prohibition of unfair commercial practices.
A commercial practice shall be unfair when it is contrary to the requirements of professional diligence, and it materially distorts or is likely to materially distort the economic behaviour of the average consumer whom it reaches or to whom it is addressed.

The Consumer Code distinguishes misleading commercial practices from the aggressive ones. The former (Articles 21-23) are practices that deceive or are likely to deceive the average consumer, as they may induce the consumer to take a decision that would not otherwise have been taken. According to recent amendments that came into force in April 2023, a commercial practice shall also be regarded as misleading if, in its factual context, taking account of all its features and circumstances, it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves any marketing of a product, including comparative advertising, which creates confusion with any products, trademarks, trade names or other distinguishing marks of a competitor.

If the entrepreneur uses harassment, coercion or other forms of undue influence, its behaviour shall be considered aggressive (Articles 24-26). The aggressive nature of a commercial practice depends on its nature, its timing, its forms and the possible use of physical and oral threats.

CONSUMER PROTECTION, CONT'D

Contracts with consumers.
Pursuant to Article 33 and following of the Consumer Code, a contractual term shall be regarded as unfair, even in the case of the seller's/supplier's good faith, if it causes a significant imbalance in the parties' rights and obligations arising under the contract to the detriment of the consumer. If the clause is unfair, it is null and void.

Stricter rules for distance contracts have also been introduced since 2024. Article 51 (6) of the Italian Consumer Code provides that in the case of contracts concluded by telephone, the trader must confirm the commercial offer to the consumer, who is bound only after signing the offer or accepting it in writing.
Typically, the Authority can: evaluate and ascertain the unfair nature of contractual terms through an ex officio inquiry or following a complaint or making an assessment under a specific request by a seller or supplier (the "interpello").

After-sales guarantees (Articles 128 - 135).
It is a legal guarantee in favour of the consumer, which means that it is always recognised and consequently cannot be excluded or limited. Even if the defect is attributable to the producer, it always relates to the existing relationship between the consumer and the seller. It lasts for a period of two years from the delivery of the goods. It is applied to all products purchased by the consumer, even to second-hand goods, and also covers the installation of the assets. Through this tool, the consumer is firstly entitled to the repair or replacement of the goods (primary remedies) or, if this is not possible, to the reduction or termination of the contract (secondary remedies). The additional conventional warranty offered by the manufacturer or by the seller can be added to the legal guarantee.

Right of withdrawal (Articles 52 – 59).
The right of withdrawal allows the consumer to change his mind about the purchase made, and free himself from the contract without giving any reason. In this case, the consumer can return the goods and obtain a refund of the amount paid. The right of withdrawal is provided for distance or off-premises contracts concluded between traders and consumers (however, there are numerous exceptions, listed in Article 59 of the Consumer Code).

The right of withdrawal in the e-commerce field can be exercised within 14 days starting:
- in the case of service contracts, from the time of conclusion of the contract;
- in the case of sales contracts, from the day on which the consumer or a third party, other than the carrier and designated by the consumer to receive the goods, acquires physical possession of the goods.

Given the incisiveness of sales concluded at the consumer's home without his prior invitation, the withdrawal period is extended to thirty days in such cases.

Before the expiry of the withdrawal period, the consumer shall inform the trader of his decision to withdraw from the contract. The consumer may also exercise this right before acquiring physical possession of the goods.

The exercise of the right of withdrawal shall release the parties from their respective obligations. It follows that:
- consumers shall be required to return the goods within 14 days after the date upon which the trader was informed of the consumer's intention to withdraw;
- the trader shall reimburse all payments received from the consumer, including, where applicable, delivery costs, without undue delay and in any event within 14 days after the date upon which the professional was informed of the consumer's intention to withdraw.

Dispute Resolution (Articles 141 – 141 bis).
In case of issues related to the purchase of a product or service, regardless of whether it was purchased online or directly in a store, the consumer can resort to out-of-court dispute resolution methods (so-called "Alternative Dispute Resolution" or "ADR") regulated by Articles 141 and 141bis of the Consumer Code.

ITALY

TERMS OF SERVICE

Besides the provisions of the Consumer Code, the Italian legal source for e-commerce is the Legislative Decree no. 70 of April 9, 2003 (the Italian transposition of the Directive 2000/31/EC of the European Parliament and of the Council on Electronic Commerce), hereinafter the "E-commerce Law".

According to the E-commerce Law, in order to offer online products and services, service providers must:

- Provide general information, that is easily, directly and permanently accessible (i.e. the name of the service provider, the geographic address at which the service provider is established, the details of the service provider including their electronic mail address, the trade or similar public register where the service provider is registered, the prices of the service inclusive of tax and delivery costs – Article 7 of the E-commerce Law).
- Meet specific requirements for commercial communications (i.e. the communications shall be clearly identifiable as such, the natural or legal person on whose behalf the commercial communication is made shall be clearly identifiable, promotional offers, such as discounts, premiums and gifts, shall be clearly identified as such – Article 8 of the E-commerce Law).
- Provide additional specific information required for the conclusion of the contract (i.e. the different technical steps to follow to conclude the contract, whether or not the contract will be filed by the service provider and whether it will be accessible, the technical means for identifying and correcting input errors, the languages of the contract).

In addition to the above, when the service or product is offered to consumers, the terms of service must comply with the mandatory provisions of the Consumer Code. Failure to do so may render specific clauses, or in some cases the entire contract, unenforceable.

TAX/FUNDING

A wide range of benefits are available for innovative startups, including tax breaks, simplified procedures, exemptions from corporate regulations and easier access to financing.

Tax incentives for equity investors.
The Startups Decree rewards equity investments in innovative startups, by natural or legal persons through significant tax incentives, as follows:

- For a natural person, a deduction from gross income tax (IRPEF) equal to 30% of the amount invested, up to a ceiling of euros 1 million;
- For a legal person, a deduction from taxable corporate income (IRES) equal to 30% of the amount invested, up to a ceiling of euros 1 million.

These benefits are granted for a maximum duration of five years (from the company's registration) and do not apply if the investment generates a qualified shareholding of more than 25% of the share capital or governance rights or if the investor is also a service provider to the startup, with a turnover exceeding 25% of the investment.

The deduction for natural persons increased to 65% as of January 1, 2025. For further information visit https://www.mimit.gov.it/index.php/it/impresa/competitivita-e-nuove-imprese/start-up-innovative/incentivi-de-minimis.

Exemption from duties and other fees for registration.
Innovative startups are exempt from the annual membership fees that a company has to pay to Companies House. In addition, innovative startups do not pay the secretarial fees and the stamp duties owed to the Companies House for filing any communication.

TAX/FUNDING, CONT'D

Simplified access to the Guarantee Fund for Small and Medium Enterprises (SME Guarantee Fund).
Innovative startups benefit from a simplified, free and direct intervention from the SME Guarantee Fund, a public facility that fosters access to credit by applying guarantees on bank loans.

The guarantee covers 80% of the credit issued by financial institutions to innovative start-ups up to 2.5 million euros. The guarantee is issued under exceptionally favourable conditions: automatic (the fund does not perform any merit assessment in the startup position), priority (applications from innovative startups are evaluated before all others), free of charge (there are no costs to access the fund).

For further information see the Government website at https://www.mimit.gov.it/index.php/it/incentivi/fondo-di-garanzia-per-le-pmi.

Access to the financing programme called "Smart & Start Italia".
Managed by Invitalia (the national business development agency) this financing programme that offers subsidised loans to innovative startups to cover investment plans and operating costs worth at least 100,000 euros and up to 1.5 million euros.

Spending programmes are covered by an interest-free loan of up to 70% of this amount. The loan coverage rate rises to 80% if company members are mostly women or under 35, or include a researcher returning from abroad.

Smart & Start Italia is a "first come, first served" measure: there are no rankings, and requests are examined individually in order of arrival. The subsidised loan is issued in the form as reimbursement of eligible paid invoices.

For further information see the Government website at https://www.mimit.gov.it/it/incentivi/sostegno-alle-startup-innovative-smart-start-italia.

Fundraising through equity crowdfunding campaigns.
In 2013, Italy was the first country in the world to regulate the equity crowdfunding market, through the creation of a special register of authorised online portals.

The instrument falls under the responsibility of the Italian financial market supervisory authority (CONSOB) – visit the website at https://www.consob.it/web/investor-education/crowdfunding.

Conversion into an innovative SME.
Successful innovative startups that maintain a clear innovation component can turn into innovative SME (after the fifth year), retaining the right to the benefits available.

Exceptions to general corporate law.
Innovative startups in the SRL form are allowed to:

- Create categories of shares with specific rights (e.g. categories of shares without voting rights, or whose voting rights are not proportional to capital share).
- Carry out transactions on their own shares.
- Issue financial instruments such as stock options and work-for-equity.
- Offer capital shares to the public.
- Extend the period to cover losses. In the event of financial losses resulting in a reduction of the company's share capital of more than one third, by way of derogation to the Italian Civil Code, the period within which the loss must be reduced to less than one third is postponed to the second subsequent financial year (instead of the first subsequent financial year). In the event of a reduction of the capital below the threshold set forth by the law, incurred due to losses, shareholders may postpone the adoption of the countermeasures provided by the law until the end of the following financial year.
- Special measures for VAT credits compensation. Standard regulations, which require affixing a costly "conformity visa" in order to claim VAT credits amounting to more than 5,000 euros, may constitute a disincentive to the use of so-called „horizontal offsetting" (i.e. using VAT credits to offset other taxes). Startups are requested to apply the conformity visa only for VAT credits above 50,000 euros.
- Be exempt from the rules applicable to dummy companies.
- Access to a tailor-made labour regulation and a flexible remuneration system (see answer no. 7).

TAX/FUNDING, CONT'D

Exceptions to general corporate law. CONT'D

- Access to a "Fail Fast" procedure in case of failure (innovative startups are exempted from standard bankruptcy procedures, composition with creditors, and compulsory administrative winding-up). Instead, they are subject exclusively to the less burdensome procedures for managing crisis and over-indebtedness, originally provided for by Law no. 3/2012 and now part of the Code of Business Crisis and Insolvency. The rationale is to allow entrepreneurs to quickly acknowledge the failure of an innovative project without the stigma and limitations of traditional bankruptcy, thereby encouraging them to start new ventures.

WHAT ELSE?

A company that meets the requirements listed in answer 2) can obtain innovative startup status by registering in a special section of the register of the Italian Companies' House.

The registration is voluntary and free of charge.

The entrepreneur must submit a self-certification confirming compliance with the relevant requirements. The special benefits apply from the application date, and they may be maintained, if all the other requirements are met, until the fifth year following incorporation.

The simplified registration process is balanced by two safeguards.

First of all, Companies House carries out routine checks to make sure that the innovative startup meets and maintains the above-mentioned requirements. Secondly, a list of the registered startups is publicly available on the website (https://startup.registroimprese.it/isin/home) for public monitoring and to discourage opportunistic behaviour.

In addition to that, innovative startups are required to confirm (annually) that they fulfil the requirements set forth by law.

The Government has also introduced initiatives to support the incorporation of start-ups by foreign investors.

There are three different programmes: Investor Visa for Italy (a new type of visa, valid for two years for foreign citizens from non-EU countries who intend to make a significant investment or donation in strategic assets for the development and competitiveness of the Italian economy); Italia Startup Visa (aimed at non-EU entrepreneurs who intend to start up an innovative business in Italy, introducing a new simplified procedure for granting visas for self-employment); Italia Startup Hub (the aforementioned simplified procedure is extended to non-EU citizens who already reside in Italy with a regular permit and who intend to stay in Italy to set up an innovative startup).



JAMAICA

CONTRIBUTORS

JAMAICA
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JAMAICA

LEGAL FOUNDATIONS

Jamaica follows the English Common law system. The sources of law are statutes and case law, treaties and books or articles on the relevant subject matter from authoritative sources such as Halsbury's Laws of England. In terms of jurisdiction, there are parish courts that preside over cases within the parish borders and twelve miles from the parish border in relation to the criminal jurisdiction. In the civil jurisdiction, there is a monetary limit of $1,000,000.00 for matters in the parish courts. Any amounts in excess of this is done in the Supreme Court or High Court. The Supreme Court of Jamaica is a trial court of first instance. Its decisions are appealable to the Court of Appeal of Jamaica. The final tier of the appeals is the Privy Council that is situated in London England and is staffed by judges of the United Kingdom's Supreme Court.

Cases are decided on the principle of judicial precedent. This is governed by the principle of stare decisis which in practice means "let the decision stand." What this means in practice is that decisions of higher courts are binding on the lower courts unless the decision can be distinguished based on fact or law.

Public Law: covers the relationship between citizens and public authorities or persons or entities exercising a public function.

Private Law: may be based on contract or obligations. The latter includes tort whereby the law imposes duties on persons in relation to land, product liability or based on their relationships – eg. trespass or negligence.

Criminal Law: relations to offences against the state such as murders, traffic offences or in relation to enforcing international treaties that have been codified into law such as copyright or trademark infringements.

CORPORATE STRUCTURES

The different corporate structures are sole trader, partnerships and corporations.

Sole Trader: This is where an individual carries on business in his own name or by using a trading name that is not his own. In relation to the latter, that is a trading name, not his own, the sole trader is required to register under the Registration of Business Names Act. There are disadvantages to this form of carrying on business. The most obvious disadvantage is that the individual has unlimited liability and is personal responsible for all liabilities of the business. Another disadvantage is borrowing. Lenders tend to prefer corporations as they do not have to deal with the personal succession and estate issues associated with individual ownership.

CORPORATE STRUCTURES, CONT'D

Partnerships: This is where two or more persons agree to carry on business for profit. This form of business structure is better than a sole trader primarily because the liability of the partners is limited to the extent of their contributions or as agreed among them. This is not as advantageous as at first appears in that, the aggrieved persons can sue all partners. Partners who are forced to pay up will then have to seek an indemnity against the non-paying partner. Some business types must operate in the form of partnerships such as lawyers and accountants. Under the current law, a partnership agreement is not required but for good order and liability it is good practice to obtain one. There is a statute that has not yet come into effect that will enable persons to incorporate as limited liability corporations or partnerships.

Corporations: A company is a juristic or legal person. It is established under the Companies Act, 2004 (inclusive of amendments). Formation of a company requires only one shareholder and the same person can be the only director. The advantage of the company is that the shareholders are only liable to the extent of their contribution. Unlike the partnership, only the shareholders' contribution is liable to be attached on a winding up. Shares are no longer be issued at par value in Jamaica.

Companies can be private or public companies. There are several options for raising capital in Companies and in any event this corporate structure is more favoured by lenders. The options for raising capital include:

1. Share capital;
2. From existing shareholders, by rights issue; and
3. Commercial lenders.

Companies are attractive as a corporate structure for raising capital as they are not plagued by succession issues, they can offer security such as debentures over all or some of their assets.

Companies must be registered under the Companies Act and must comply with regulatory requirements for registered address, secretary, and ultimate beneficial ownership. These new requirements will bring Jamaica into alignment with the Financial Action Task Force's recommendations and global standards in the fight against money laundering, terrorism and the proliferation of weapons of mass destruction.

ENTERING THE COUNTRY

There are no specific rules relating to foreign investments except in specialised industries such as the cannabis industry where the majority ownership must be Jamaican. However, there are policies geared at encouraging foreign direct investment such as the establishment of credit bureaus, a separate register for personal interests in property under the Security Interests in Personal Property Act (SIPPA). Forming businesses has also become much easier and a portal for the online payment of taxes thereby aligning the methods of doing business with first world standards.

However, there is the Jamaica Promotions Agency which is established under the JAMPRO Act, 1990 to promote business opportunities in Jamaica. They are the primary agency to consult when dealing with trade (export) and investment opportunities in Jamaica. They cater to the local and international private sector. It operates under the Ministry of Industry, Investment & Commerce.

JAMAICA

DATA PROTECTION/PRIVACY

There are no specific rules relating to foreign investments except in specialised industries such as the cannabis industry where the majority ownership must be Jamaican. However, there are policies geared at encouraging foreign direct investment such as the establishment of credit bureaus, a separate register for personal interests in property under the Security Interests in Personal Property Act (SIPPA). Forming businesses has also become much easier and a portal for the online payment of taxes thereby aligning the methods of doing business with first world standards.

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ARTIFICIAL INTELLIGENCE

There is no regime for AI regulation in Jamaica. However, there is ongoing discussion towards developing a governance framework of Artificial Intelligence. There is a National Intelligence Task Force whose mandate is "make recommendations for Jamaica to harness the potential of Artificial Intelligence (AI) as a catalyst for innovation, economic growth, and enhanced societal well being. The Task Force produced a report in September 2024 which organised the goals for AI implementation according to short term (1-3 years), medium term (4-6 years) and Long-Term (7-10) years. Beyond this there is not yet a definitive policy posture on the use of AI in Jamaica. It is likely that specific sectors or use will be constrained by the law governing those areas. For example, there is already acknowledgement that Ais use the development of intellectual property will be constrained by the terms of the Copyright Act or the Patents and Designs Act that restrict the ownership of works and inventions to human beings.

EMPLOYEES/CONTRACTORS

There are employment contracts and work for hire contracts. There is a strict regime whereby work for hire contracts cannot be used to avoid the obligations of the employer especially as it relates to payroll taxes. The recent decision of **National Housing Trust v. Marksman Limited & Robert Epstein [2022] JMRC 1** reinforced the distinction between work for hire and employment contracts. The term work for hire is not used but instead, independent contractors. Therefore, the distinction is between a contract of services (employment contract) or a contract for services (independent contractor). Objective factors are used to determine whether a contract is one or the other. An organization cannot escape the obligations for a contract of service simply by stating that the relationship is based on a contract for services. This is because the distinction while a question of fact depends on the circumstances. A key consideration is whether the worker is engaged in business on their own account. If the worker is so engaged, this favours a determination that it is a contract for service. It is not final deciding factor. In the National Housing Trust case the questions to be considered include:

1. the degree of control exercised by the employer/hirer over the worker;
2. whether the worker provides his own equipment;
3. the extent of the worker's involvement in the "employer's" business; and
4. the extent to which the worker can profit from sound management in the performance of their tasks.

There are restrictions on termination. Termination is governed by the Employment (Termination and Redundancy Payments) Act, 1974 and the Labour Relations and Industrial Disputes Act, 1975(LRIDA). These laws serve two different functions. The former sets out the framework within which termination by notice or by redundancy is to take place. It provides for a minimum notice period depending on the length of the term of the employment. The minimum notice period is two weeks' if the period of continuous employment is five years or less up and ranges up to a minimum notice period of not less than twelve weeks' notice if the period of continuous employment is twenty years or more. Notices of termination must be in writing unless it is given in the presence of a credible witness.

EMPLOYEES/CONTRACTORS, CONT'D

On the other hand, an employer may comply with Employment (Termination and Redundancy Payments) Act and still find itself in conflict with the requirement of the LRIDA. LRIDA sets up the specialised tribunal for determining industrial disputes. Industrial dispute is defined to include the suspension or termination of the worker. The jurisdiction of the tribunal is to make hear disputes and make awards depends on a referral by the Minster of Labour. The hearing is by way of review of the procedure that was used to terminate the employee. The termination must be unjustifiable or unfair. The employment can be reinstated and also awarded its normal wages for the period during with the employee would have been at work but for the dismissal.

In determining whether the termination is unfair, the Tribunal will consider or be guided by the Labour Relations Code. This requires and examination of whether there was among other things communications and consultation with the employee. If this is not followed, termination is almost impossible. Termination that does not follow fairness procedures such as giving a fair hearing or notice will give rise to a allegation of unjustifiable dismissal. Whether this is so or not will be finally determined by the Industrial Disputes Tribunal. Appeals from the Tribunal are restricted to questions of law.

If there is no referral to the Tribunal by the Minister, the employee is still able to approach the court on the basis that he was wrongfully dismissed. Wrongful dismissal focuses on the employee's entitlement under the contract of service. It has been suggested that in this respect the employee can also sue for breach of the implied terms of trust and confidence under the contract. This will enable the employee to get more damages.

The reason that the distinction between the contract of service and the contract for service is important is that the liability for payroll taxes. The employer under the contract of service has an obligation to withhold and pay over income tax, housing, education and social security taxes to the relevant government departments. There is also an employer portion of these taxes that is fixed by the relevant statutes. There is an additional tax which is not contributed to by the employee, that is the HEART tax. This is a training and services agency. The employer is required to pay over a percentage of its wage bill to satisfy the obligation. It is currently three (3) percent.

CONSUMER PROTECTION

Consumer Protection is primarily safeguarded under the Consumer Protection Act, 2015. This law protects consumers from unfair or misleading advertising or deceptive practices. It applies to all persons in trade or business either through the purchasing or selling of goods or services.

The consumer, in relation to:

1. any goods, means:
    a. any person who acquires or wishes to acquire goods for his own private use or consumption; and
    b. commercial undertaking that purchases consumer goods.
2. any services or facilities, means any person who employs or wishes to be provided with services or facilities.; and
3. any accommodation, means any person who wishes to occupy accommodation.

Goods refers to and includes all kinds of property but excludes real property, securities, money or choses in action.

CONSUMER PROTECTION, CONT'D

The consumer's rights are set out in the Act and includes:

1. right to information about the goods being sold. The information must be in the English Language. It includes the origin, the price in Jamaican currency, care, terms, components, proper use, weight, size, instructions for assembly and installation and if relevant any professional fees. If there is non-compliance, the provider will be required to bear the costs of any damage to the goods that can be attributed to the consumer's lack of information and it does not matter if there is a different warranty period or obligation.
2. the right to check the weight, volume or other measurement if these factors materially or substantially affects the price of the goods.
3. the right to receive a receipt which shows:
    a. the amount paid by the consumer;
    b. the date when the purchase is made;
    c. a description of the goods or services sold; and
    d. where applicable, the professional fees charged.
4. Subject to the standard provisions of warranties, the provider must issue explicit warranties in relation to his goods or services, the goods are new or used and whether the service offered is the repair of any appliance equipment or furniture, equipment or good. If there are no explicit warranties, there implied warranties may be imposed.

The consumer is entitled to redress in certain circumstances such as the right to have the goods repaired or to return defective goods. There are also refund obligations as opposed to giving the consumer a store credit.

Non-compliance with these obligations to the consumer also attracts a criminal sanction if the provider is found guilty.

There is a Consumer Affairs Commission which is responsible for taking and investigating consumer complaints in relation to whether goods were sold or services rendered in contravention of the Act. The parties may settle their disputes by mediation and at their option if the matter is not settled to the courts or the Consumer Protection Tribunal.

JAMAICA

TERMS OF SERVICE

The Electronic Transactions Act, 2006 applies to goods and services or facilities that are offered for "sale, hire, or" exchanged by suppliers on a website. There is a requirement in section 27 for the following information to be provided to the consumer:

1. The full name of the supplier.
2. The supplier's geographical address, website address, e-mail address and telephone number.
3. The geographical address where the supplier will receive service of legal documents.
4. A disclosure as to whether the entity is incorporated or registered under any law and, where applicable, the supplier's registration number and place of registration.
5. Details as to membership in any self-regulatory or accreditation bodies to which the supplier belongs or subscribes, and the contact information of such bodies.
6. A description of any code of conduct to which the supplier subscribes and how that code may be accessed electronically by the consumer.
7. A description off the main characteristics of each type of goods, service or facility [as the case may be] offered on the website by the supplier, which is reasonably sufficient to enable the consumer to make an informed decision as to the proposed electronic transaction.
8. The full price of the goods, services or facilities, as the case may be, including transportation cost, taxes and any other fees or cost.
9. The method of payment required by the supplier.
10. The terms of agreement, including any guarantees, that will apply to the transaction, and how those terms may be accessed, stored and reproduced by the consumer electronically.
11. The time within which the goods will be dispatched or delivered, the services rendered, or the facilities made available, as the case may be.
12. The manner and the period within which consumers can access and maintain a full record of the transaction.
13. The return, exchange and refund policy of the supplier.
14. Any dispute resolution code to which the supplier subscribes, and how the text of that code may be accessed electronically by the consumer.
15. The security procedures and privacy policy of the supplier in respect of payment, payment information and personal information.
16. Where appropriate the minimum duration of the agreement in the case of agreements for goods, services or facilities to be supplied on an ongoing basis or recurrently.
17. Where applicable, the consumer rights under section 28 (see below)

In addition to providing this information the supplier is required to provide the consumer with the following information in the same order as below:

1. review the entire electronic transaction;
2. correct any errors;
3. withdraw from any transaction before finally placing an order; and
4. access electronically and reproduce an accurate summary of the order and the terms including the total costs.

The consumer is entitled to cancel the transaction within fourteen (14) days after receiving the goods, services or facilities to which the transaction applies. If the transaction is cancelled, the consumer is required to return the goods and the supplier is required to issue a refund.

The requirements of the Consumer Protection Act apply online as well. In addition, some of the terms mirror the protections that are in the Consumer Protection Act. In addition, as personal data is likely to be collected in the course of the sale, the provisions of the Data Protection law as in section 5 above also applies so that the privacy note should comply with the terms of the that law.

JAMAICA

TAX/FUNDING

Taxation Overview

Jamaican starts may be organised as sole traders, partnerships or corporations. Sole traders and the partners in the partnership are taxed as individuals so they are liable for personal income tax and other contributions. There is a progressive tax rate which currently stands at twenty-five (25%) percent for income below six million dollars and thirty (30%) percent for income above. These business owners, being self-employed, are also required to pay contributions to the National Insurance Scheme (NIS), the National Housing Trust (NHT) and Education Tax (Ed Tax). The NIS contributions are currently at the maximum rate of 6% on their annual earnings up to a maximum of J$3,000,000.00 per annum. NHT contributions are at the rate of 2% and Ed Tax at the rate of 2.25%.

There is also a value added tax, the General Consumption Tax (GCT) on the supply of goods and services where the business has annual revenues of a minimum of $10,000,000.00 per annum. The rate is currently 15% but there are lower or higher rates depending on the industry. In telephone services for example, phone cards and handsets are supplied with GCT at the rate of 25%.

If the corporate structure is adopted, there is corporation tax of 25% on income earned in Jamaica. Where the business has employees, it is required to deduct the above taxes at source from the employees. In addition, the business is required to make a contribution on behalf of each employee. In this respect, the employer contribution to NIS is 3%, NHT is 3%, Ed Tax is 3.5% and HEART 3%.

There is a fiscal incentive framework that is created for businesses in the Special Economic Zone (SEZ). In terms of tax benefits Developers or Occupants of the SEZ benefit from the following incentives:

- Duty-free Imports;
- No GCT on Imports;
- Income Tax at the lower rate of 12.5%;
- Employment Tax Credit of 30%; and
- Withholding Tax exemptions.

Telecommunications services are not allowed to operate in the SEZ. However, other technology services are not within this in exemption.

Funding

There are funding arrangements for micro-businesses in Jamaica which startups may utilize. These are in the form of various grants that are offered by mainly the Development Bank of Jamaica(DBJ). The various programmes enable access to financing or building productive capacity. The progammes include:

- DBJ Patent Fund – This is funded though the Inter-American Development Bank. Its purpose is to support "entrepreneurship and innovation specifically in the area of new inventions that are patentable.
- Jamaica Business Fund (JBF) – This funding arrangement is supported by the World Bank. It is aimed at providing benefits to start-ups or as they say micro-enterprises that would not have the opportunity to access funding otherwise.

Innovation Grant for New Ideas to Entrepreneurship (IGNITE) – this fund aims to support small-businesses in the productive sector for up to two years. The funding available is currently up to a maximum of J$4,000,000.00 or 70% of the project cost whichever is higher. There are eligibility requirements such that the target business must show that it has the capacity to innovate.

WHAT ELSE?

There are Special Economic Zones (SEZ) which are a vehicle that promote Foreign Direct Investment (FDI) by granting tax incentives among other benefits. These are set up under the Special Economic Zones Act(SEZA), 2016. This is a division of the Ministry of Industry Investments & Commerce. There is a Jamaica Special Economic Zone Authority (JSEZA). Its functions include the following:

1. promote investments, actions or measures that are aimed at improving logistics chains in Jamaica.
2. Foster the development and expansion of the zones in collaboration with the Government of Jamaica, international organisations and the private sector.
3. Protect the environment in the course of the development and operation of Zones.
4. Create an environment that facilitates effective competition among the businesses that conduct their affairs in the zone.
5. Promote technical and operational education and training in fields of Zone development, promotion, operation and management.

A licence is required for operating in the SEZ. Information on operating a SEZ may be found at: https://www.miic.gov.jm/content/jamaica-special-economic-zone-authority.

There are two types of licences. They are:

1. As a developer; or
2. As an occupant

The developer must apply for a master concession licence. In addition, it must be a limited liability company limited by shares that is incorporated under the Companies Act of Jamaica and is established by a sponsor for the purposes of entering in the licence aforesaid. The "occupant" means a person that is not a developer of a Zone or zone user who conducts business in the Zone under a sub-concession made by that person with the developer, being a sub-concession that is in accordance with a master-concession or licence agreement with a developer.

A sponsor is an investor who or a consortium of investors that, proposes to provide shareholder capital to finance directly or indirectly, the business that a developer will undertake pursuant to a mater-concession or a licence agreement.

The benefits of being licensed to operate a SEZ include exemption from custom duty in relation to goods imported into the SEZ, subject to the provisions of the Customs Act; income tax at the rate of 12.5%, stamp duty, transfer tax and property tax relief. There are some specialized economic activities for which certificates may be granted such as maritime services including bunkering activities.



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LEGAL FOUNDATIONS

Japan has a **civil law system** based on written statutes and other legal codes in the fields of public, private and criminal law; this system is more principles-based than the common law system found in countries such as the U.K. and U.S.; laws and regulations are also subject to interpretation and clarification by regulators, etc. far more than is found in common law systems.

The core areas of law are:

- **Public law** controls national government powers, such as the relationship between individuals and the national government and government agencies (e.g. financial regulation).
- **Private law** governs the relationship between individuals (e.g. contracts, warranties, liability, etc.) and is codified in various laws, the most important being the Civil Code. There are many more laws for specific fields (e.g. employment, e-commerce, B2B relationships).
- **Criminal law** is mainly codified in the Penal Code and Code of Criminal Procedure. Specific provisions, such as criminal sanctions in the case of copyright infringements, are however included in respective relevant laws rather than the codes.

Legal precedent plays an essential role in Japan, interpreting existing legislation and effectively developing binding law (so-called "judge-made law") in areas where the legislation is silent.

There is no federal system, and all courts are unified under the Supreme Court of Japan, which is the highest and final court and handles appeals (Jokoku-appeals and special Kokoku-appeals) filed against judgments rendered by a High Court.

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

The most commonly used forms of corporation in Japan are (i) the joint stock company (kabushiki kaisha) or (ii) the limited liability company (godo kaisha).

Joint Stock Company (Kabushiki Kaisha ("KK"))

A KK is usually the first choice as a vehicle for starting a business in Japan as it is the most basic corporate form in Japan and has high social credibility. A KK is a type of corporation in which ownership and management are separated, with shareholders investing capital and delegating management to directors.

Basic requirements and procedures for formation of a KK:

- No pre-formed/off-the-shelf KKs – must be formed on a case-by-case basis.
- Typically 6 to 8 weeks to form if the parent is offshore.
- It requires at least one promoter for its incorporation.
- Although the promoter(s) can be either a natural or legal person and there is no requirement as to nationality or residence, Japanese resident individual(s) are usually hired to act as Promoter in order to ensure that the incorporation proceeds smoothly.
- Promoters have to draw up and sign the Articles of Incorporation (teikan) (the "AOI") and notarize the AOI at a notary office.
- Minimum statutory capital of JPY 1.
- Must have at least one director.
- Needs a bank account in Japan to receive capital.
- No requirement for a director resident in Japan, but advisable to have one Japan resident director for smooth operation of the KK.
- As soon as the registration with the commercial register has been completed, it can start commercial activities.

ADVANTAGES

- High social credibility
- Limited liability

DISADVANTAGES

- Cost for establishment and maintenance is relatively high
- Mandatory publication of financial statements

CORPORATE STRUCTURES, CONT'D

Joint Stock Company (Godo Kaisha ("GK"))

A GK is a relatively new type of corporation, introduced in 2006, whereby members invest capital and manage the company themselves; it is similar to a US LLC.

Basic requirements and procedures for formation of a GK:

- No pre-formed/off-the-shelf GKs – must be formed on a case-by-case basis.
- Typically 6 to 8 weeks to form if a member is offshore.
- No directors as members manage the GK themselves (possibly with a managing officer).
- It requires at least one member for its incorporation.
- Needs a bank account in Japan to receive capital.
- No requirement for a member resident in Japan, but advisable to have one Japan resident member or managing officer appointed by a member for smooth operation of the GK.
- Although the member(s) can be either a natural or legal person and there is no requirement as to nationality or residence, Japanese resident individual(s) are usually hired to act as a member in order to ensure that the incorporation proceeds smoothly.
- While members need to prepare the AOI, no need for its notarization.
- No minimum statutory capital.
- As soon as the registration with the commercial register has been completed, it can start commercial activities.

ADVANTAGES

- Cost for establishment and maintenance is lower than for a KK
- No mandatory publication of financial statements
- Limited liability
- Simpler management structure than a KK

DISADVANTAGES

- Lower social credibility compared to a KK

JAPAN

ENTERING THE COUNTRY

Registration (Foreign Company) (gaikoku-gaisha-no-toki)

When a foreign company "carries out transactions continuously in Japan" from offshore itself and not through a branch office or legal entity in Japan established by it the foreign company needs to complete registration as a "Foreign Company" and appoint a local representative.

Restriction on Inward Direct Investment, etc.

If a transaction falls within the scope of an "Inward Direct Investment, etc." (tainai-chokusetu-toshi-tou), then, subject to certain exceptions, (i) a report prior to the transaction (which will trigger a 30-day compulsory waiting period), or (ii) an after-the-fact report, must be made to the Minister of Finance pursuant to the Foreign Exchange and Foreign Trade Act (Gaikoku-Kawase-oyobi-Gaikoku-Boeki-Hou). A foreign investor that has filed a prior notification must also submit an after-the-fact report within 45 days from the closing of the transaction.

Inward Direct Investment, etc. includes, amongs others:

1. acquisition by a foreign person or entity (e.g. non-Japan resident individuals and companies incorporated under the laws of a foreign jurisdiction) of any shares or equity of a Japanese company from persons other than foreign investors (foreign investors include non-Japan resident individuals and companies incorporated under the laws of a foreign jurisdiction). In the case of a listed company, acquisition of 1% or more of the voting rights triggers the reporting requirement, and in the case of a non-listed company, acquisition of one or more shares triggers the reporting requirement; and
2. establishment of a branch (if a foreign entity), subsidiary or other business office (excluding a representative office) in Japan by a foreign person or entity.

In relation to item 1, acquisition of shares of a Japanese non-listed company between foreign investors is categorized as "Specified Acquisition".

If the target companyconducts a "Designated Business", then a prior notification will be required for such transaction. This applies not only to "Specified Acquisitions" but more broadly to acquisitions of shares that meet the statutory thresholds. Designated Business includes businesses related to, among others, electric power, telecommunications, software, weapons manufacturing, aircraft, space, nuclear energy, cybersecurity, agriculture, forestry and fisheries.

If such a transaction is made by a foreign investor indirectly (e.g. acquisition of shares of the foreign parent of a non-listed Japanese company) it would not, subject to limited exceptions, fall within the scope of Inward Direct Investment, etc.

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INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any words, figures, symbols, three-dimensional shapes or colours or combinations thereof, sounds, movements, holograms, and positions used to distinguish one's own goods or services from those of others can be registered as trademarks.

Where to apply? Trademarks can be filed either with (i) the Japan Patent Office (JPO) or (ii) the World Intellectual Property Organization (WIPO) through the local authorities acting as the receiving office, under the Madrid System, although this depends on the territories in which trademark protection is sought. Applications can be filed by post. Online filing requires specialised software and therefore the support of a patent attorney. The JPO then examines the application and only those that pass this review are granted a trademark registration. This process usually takes around six months to a year, but if the requirements are met, this period can be reduced to around two months by applying for accelerated examination.

Duration of protection? The period of protection of a trademark begins on the date of registration and lasts for 10 years. A trademark owner can extend the term of protection indefinitely every 10 years by completing a renewal procedure. However, if an invalidation trial requested by a third party is granted, the protection will be invalidated even during a 10-year registration period.

Costs? Application costs for Japanese trademarks are JPY 12,000 for a single class (with JPY 8,600 per additional class). Registration costs are JPY 32,900 for a single class (with JPY 32,900 per additional classes). In addition, the legal representative will charge a fee. If the application is filed under route (ii) above, there is a separate fee structure because of the fees charged by the local authorities and WIPO.

Consent System Since April 1, 2024, Japan has introduced a "consent system", which allows registration of trademarks that are identical or similar to prior registered trademarks where the prior trademark owner provides consent and where the parties have reached an agreement on trademark co-existence that prevents confusion as to the source of goods or services. Trademarks that would have been refused before the introduction of this system may now be registered with the agreement of the prior trademark owner.

Patents

What is protectable? Inventions that are novel, involve an inventive step, and are industrially applicable are patentable. These inventions can be in any field of technology, including products and processes. The scope of patent protection is granted to what the applicant has described in the claims. A patent application typically contains multiple claims, each defining different aspects or variations of the invention disclosed in the application.

Where to apply? Patents can be filed with the JPO. International applications can also be filed through the Patent Cooperation Treaty (PCT) with the local authority acting as the receiving office, or directly with the WIPO. The procedures and costs associated with filing vary depending on the route chosen.
Duration of protection? In either case, the term of protection is a maximum of 20 years from application and must be maintained by annual fees. This term can be extended for certain patents, such as those covering pharmaceuticals and agrochemicals, to compensate for the time taken to obtain regulatory approval.

Costs? The main costs involved in filing and registration of a patent are:

1. Filing costs: a flat fee of JPY 14,000 regardless of the number of claims,
2. Request for examination of application costs: JPY 138,000 + JPY 4,000 per claim; and
3. Registration costs for the first three years are JPY 4,300 + JPY 300 per claim per year, with fees increasing progressively thereafter.

In addition, the legal and technical representatives will charge fees. If the application is filed through the PCT, there is a separate fee structure because of the fees charged by the local authorities and WIPO.

Employee invention and inventor bonus? According to the Japanese Patent Act, the right to the grant of a patent for any employee invention, which is made in connection with their work, vests in the employer only when it is prescribed in any agreement, employment regulation or any other stipulation provided in advance. If an employee invention is transferred to or vested in the employer in accordance with any agreement, the employee is entitled to an appropriate inventor bonus calculated in accordance with the agreement.

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INTELLECTUAL PROPERTY

Utility Models

What is protectable? In Japan, utility models protect inventions related to shape, structure, or a combination of items that have industrial applicability. Unlike patents, utility models are often easier to obtain for inventions that may not meet the higher inventive step requirement of patents. As with patents, the scope of utility model protection is defined by the claims in the application.

Where to apply? Applications for utility models must be filed with the JPO. Like patent applications, utility models can also be filed through international routes such as the PCT if Japan is a designated country. There is a utility model system that permits registration without undergoing a substantive examination, allowing for rapid and cost-effective registration. As there is no examination, this process facilitates quicker protection of inventions, although it places the responsibility for ensuring the validity of the rights of the utility model holder on them before enforcement procedures are carried out.

Duration of protection? The period of protection for a utility model is 10 years from the filing date, which is shorter than the 20-year protection period for patents.

Costs? At the time of application, the application cost (JPY 14,000) and registration cost for the first three years (JPY 2,100 + JPY 100 per claim per year), with fees increasing progressively thereafter, must be paid. In addition, there will be the fees of the legal and technical representatives. If the application is filed through the PCT, there is a separate fee structure because of the fees charged by the local authorities and WIPO.

Designs

What is protectable? Industrial products, including parts of products, can be protected under design rights; products that are not mass-produced, such as works of art, can also be protected. This includes the shape, pattern or colour of an article (including part of the article), or a combination of these, or the shape of a building etc. or an image, which is pleasing to the eye.

Where to apply? Applications for designs can be filed with the JPO. International applications can also be filed under the Hague Agreement concerning the International Registration of Industrial Designs, with the local authority acting as the receiving office, or directly with the WIPO.

Duration of protection? The duration of design protection in Japan is 25 years from the application date.

Costs? Application costs for designs are JPY 16,000. Registration costs are JPY 8,500 annually for the first three years and JPY 16,900 annually thereafter. In addition, there will be the fees of the legal representative. If the application is filed through the Hague Agreement, there is a separate fee structure because of the fees charged by the local authorities and WIPO.

The following IP rights cannot be registered:

Copyright

What is protectable? Copyright protection is available for expressions of an author's intellectual activities to produce works such as literature, music, art, software, etc. Protection is automatically granted upon the creation of the work without the need for registration or any form of copyright notice.

Duration of protection? Copyright lasts for 70 years after the death of the author, except in the case of works with anonymous or pseudonymous authors, where copyright lasts for 70 years from the date of publication.

How to exploit copyright? Copyright owners can exclusively exploit their works to generate revenue. This includes the right to take legal action against unauthorized use of their copyrights, such as seeking injunctions or claiming damages for copyright infringement, to protect their works from unauthorized exploitation by others. Copyright owners also have the option to license their works, granting others permission to use their works under agreed terms, which can be a source of income. They can also assign their copyrights to others for consideration, further monetizing their intellectual property.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit their work. However, there are specific provisions that limit copyright rights to balance the interests of copyright owners with the public interest. These include exceptions, such as for educational purposes, private use, citing, photobombing and non-commercial performance, etc. allowing certain uses of copyrighted works without the need for permission from the copyright owner. The use of copyrighted works in machine learning is described below (Section 6).

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INTELLECTUAL PROPERTY

Trade Secrets

What is protected? Trade secrets are not recognized in Japan as an intellectual property asset as such. However, the Unfair Competition Act protects know-how and business information of commercial value that is kept secret. Thus, for protection of trade secrets, companies are required take appropriate non-disclosure measures (e.g. marking information as trade secrets, implementing IT security measures, restricting access and agreeing NDAs). Data that does not fall within the scope of trade secrets can still be protected as limited provision data under the Unfair Competition Prevention Act, which provides legal remedies such as injunctions and damages claims. Additionally, such data may be protected through data agreements between parties.

Duration of protection? As long as appropriate measures are in place, know-how and business information of commercial value are protected without limit in time.

DATA PROTECTION/PRIVACY

The following is a brief description of Japan's data protection regime, namely regulations under the Act on the Protection of Personal Information("PIPA").Japan's data protection regime is anchored by the PIPA, supplemented by sector-specific guidelines for areas of such as finance, healthcare, telecommunications and some other important sectors.

Definition of Personal Information
The PIPA defines personal information as information relating to a living individualcontaining a name, date of birth, or other identifier or the equivalent which can be used to identify a specific individual, or an individual identification code (such as the individual number of an identification document issued by the public sector). In addition, personal data is defined as personal information that constitutes a systematic structure of personal information that can be retrieved using a computer (this is called as “personal information database“ in the PIPA).

Obligations upon acquisition of personal information
When handling personal information, the business operator handling the personal information shall specify and notify to the data subject or make public the purpose of utilization of the personal information as much as possible in advance of acquisition of the personal information unless there are exceptional circumstances specified by the PIPA.

The prior consent of the data subject must in principle be obtained when acquiring sensitive personal information (such as ethnicity, creed, social status, medical history, and previous convictions), except in exceptional cases specified by the PIPA.

Ensuring the accuracy of the content of personal data
The PIPA requires a business operator to endeavor to keep personal data accurate and up-to-date to the extent necessary to achieve the purpose of use, and to delete personal data without delay when it is no longer needed.

Obligation to take security control measures
Business operators are obligated to take necessary and appropriate measures for security control of personal information and to supervise their employees and contractors for this purpose. The content of security control measures is not specifically stipulated, though guidelines require that the content be necessary and appropriate according to certain factors.

Response upon data breach
If a material data breach as defined in the PIPA occurs, or there is a risk of such a breach occurring, a preliminary report should be made to the Personal Information Protection Commission (PPC) within 3-5 days of discovery. Detailed information must then be submitted in a confirmation report within 30 days of discovery. In addition, data subjects whose rights and interests could be damaged by the data breach must be notified as soon as possible, according to the circumstances of the situation.

DATA PROTECTION/PRIVACY, CONT'D

Transfer of personal data to a third party in Japan
The transfer of personal data to a third party must be within the purpose of use, and in principle with the consent of the data subject. Sensitive personal information is transferrable only with the consent of the data subject. Transfers for subcontracting, business succession, or joint use stipulated in the PIPA do not require consent.

In order to ensure the traceability of personal data, the transferor of personal data must create and keep a record of the transfer, and the receiver of personal data should confirm and record the identity of the transferor and thereason for obtaining the personal data.

Transfer of personal data to a third party outside of Japan
The transfer of personal data to a person in a third country must be within the purpose of use, and in principle only with the consent of the data subject.Consent is subject to the data subject being provided with adequate information,such as information on the data protection legislation of the third country.Regulations on the transfer of personal data to a person in a foreign third party do not apply to countries specified in the Rules of the PPC (currently only EEA member countries and the UK). In such cases, regulations equivalent to those governing the transfer to a third party in Japan apply.

The same exception also applies to transfer of personal data to a business in a foreign country which constantly implements measures required under the PIPA, but an explanation of the content of such measures must be given to the data subjects upon request, in addition to ensuring continuous implementation of the said measures.

Extraterritorial application
In principle, the PIPA applies only to handling of personal information in Japan, thoughit is applied extraterritorially in cases where the handling of personal information overseas is related to the provision of goods or services to persons residing in Japan.

Rights of the data subject
A data subject has the right to request thebusiness operator handling its personal information to disclose, correct or stop using his/her personal data.

Note: The triennial review of the PIPA is currently underway. In June 2025, the PPC published the policy direction for the revision, which includes proposals for administrative surcharges, enhanced regulation of personally referable information, and expanded exceptions for using personal data for statistical purposes (including AI training). The amendment bill is expected to be submitted to the Diet in 2026.

ARTIFICIAL INTELLIGENCE

While the Act on Promotion of Research and Development, and Utilization of AI related Technology (the "AI Act," 2025) establishes a general framework to promote AI development, it does not create detailed, cross sector obligations comparable to a comprehensive regulatory regime. In practice, the Japanese government continues to address AI related risks through sector specific legislation and soft law instruments (such as ministry guidelines and administrative notices). The AI Act primarily requires business operators to cooperate with these sector based governmental measures, rather than imposing direct, uniform compliance duties across all industries.

Considering the details of the "Interim Report on the state of the AI system" which will be released by the AI Strategy Council, it is expected that the government will create an obligation to ask operators to cooperate in investigations in the case of serious accidents resulting from the use of AI and to ensure transparency and appropriateness when necessary. The purpose of this regulation is to enable the government to collect and, if necessary, publish information on the use of AI. It is not expected to include the establishment of prohibited types, risk assessment, auditing, or prohibition of certain activities. Although it will create regulations focused on AI, they are expected to be minimal in content. This minimization of AI-specific regulations is in line with the Japanese government's longstanding efforts to date.

Therefore, as Japan does not yet have any horizontal AI regulations except the AI Act, AI is mainly governed by sector specific regulations. In some cases, regulations are focused on the use of AI, such as:

- Autonomous Driving: The revised Road Traffic Act and Road Transport Vehicle Act allow Level 4 automated driving.
- Finance: The Installment Sales Act allows credit card companies to determine credit amounts using data and AI.
- Infrastructure: The High-Pressure Gas Safety Act enables Super Certified Operators to use AI to conduct safety inspections without interrupting operations for up to eight years.
- Legal: AI-assisted contract services are aligned with the Attorney Act. There is a guideline issued by Ministry of Justice for use of AI contract review services.
- Healthcare: Early approval systems for AI-based diagnostic software.

In other cases, laws do not establish regulations focused on AI but generally regulate AI in a technology-neutral manner, even areas which are not explicitly regulated. Therefore, any legal interest that existing regulations seek to protect must be complied with, even when AI is used. The Digital ad hoc Commission (Digital Rincho) in the Digital Agency is revising approximately 10,000 regulations and ordinances relating to analog methods, which include requirements for written documents, on-site inspections, periodic inspections, and full-time stationing to make them applicable to AI in the current regulatory environment sector.

In addition, the Ministries of Internal Affairs and Communications ("MIC"), and of Economy, Trade and Industry ("METI") have released guidelines for AI businesses. The guidelines provide a unified policy for AI governance in Japan, aimed at ensuring that those who utilize AI in various business activities correctly recognize the risks of AI and voluntarily implement necessary countermeasures. Guidance has been added for the most advanced AI systems, including state-of-the-art foundational models and generative AI systems. The guidelines differ from the previous METI and MIC guidelines. These guidelines are in the process of being revised to reflect recent changes. The basic content of the guidelines is being developed in line with international discussions based on last year's G7 Digital Ministerial Meeting. Moreover, the Digital Agency has published a "Guide to Countering Risks in the Utilization of Text Generation AI (AlphaVersion)". Although this guide is basically a set of considerations for use by government agencies, they are intended to be referred to by private companies as well. This guide is intended for developers and providers of text generation AI services and outlines the key risks and considerations specific to text generation AI, organized by the form in which such services are provided and the way they are used.

ARTIFICIAL INTELLIGENCE, CONT'D

It is important to note that in Japan, an AI Safety Institute has been established at the Information-technology Promotion Agency. The purpose was to cooperate with the UK and other countries during the period in which they are strengthening their AI-safety frameworks. Here, the following documents were developed to promote the implementation of AI.

- Guide to Red Teaming Methodology on AI Safety
- Data Quality Management Guidebook (Draft)
- AMAIS: Activity Map on AI Safety
- Guide to Evaluation Perspectives on AI Safety

In February 2025, METI prepared an easy-to-use "Contract Checklist for the Use and Development of AI" for the purpose of promoting the appropriate distribution of benefits and risks between the parties, and ultimately the utilization of AI, considering the widespread use of generated AI and recent market environment changes.

The governing Liberal Democratic Party is discussing further AI regulation, but its focus was to strengthen the requirements for foundation models, rather than to develop a uniform horizontal regulation. The AI system research group, established under the AI Strategy Council, discussed AI regulation and released its "Interim Report on the state of the AI system".

In addition to the above overview, there are some important developments in the Copyright Act and the PIPA in relation to usage of AI.

Regulations under the Copyright Act
Regarding the treatment of AI under the Copyright Act, the Agency for Cultural Affairs published a "Concept on AI and Copyrights" and "Checklist & Guidance on AI and Copyright". According to these documents, use of existing works at the training or development stages of AI will in most cases be permitted by applying Article 30-4 of the Copyright Act which allows, in principle, the use of works for "non-enjoyment purposes", of which information analysis purposes are a typical example. Information analysis can fall under "non-enjoyment purposes" even if the ultimate result is intended to be used for commercial purposes, meaning that use of copyrighted works for a broad range of machine learning is permitted. On the other hand, if the purpose is the intentional output of the creative expressions of a copyrighted work contained in the training data in the same state, then such use is not considered to be for "non-enjoyment purposes" and Article 30-4 of the Copyright Act does not apply. Furthermore, Article 30-4 of the Copyright Act is not considered to apply in cases where the interests of the copyright holder would be unreasonably impaired. A typical example of this would be the reproduction for information analysis purposes of copyrighted works contained in a database that is organized and sold in a form that allows a large volume of information to be used easily for information analysis.

The use of AI at the generation and utilization stages may constitute copyright infringement of existing works. Similar toLike the requirements for copyright infringement that already apply to creative activities performed by humans without AI, copyright infringement occurs when both similarity and reliance on an existing work are found. In particular, the reliance requirement may be considered to be satisfied not only in cases where the AI user is deemed to have been aware of the existing work, but also even where the AI user was not aware of the existing work but the existing work is contained in the training data used by the AI. On the other hand, if the AI user was not aware of the existing work and the AI training data does not include such work, then it is considered to be only a coincidence and reliance is not found.

ARTIFICIAL INTELLIGENCE, CONT'D

In addition, the Japanese government released Principle-Code for Protection of intellectual property and transparency for the appropriate use of generative AI (provisional title) (draft). This document, in line with the Act on Promotion of Research, Development and Utilization of Artificial Intelligence-Related Technologies (Act No. 53 of 2025), considers the EU AI Act (measures to ensure transparency and measures to protect copyright) and the efforts in the field of corporate governance such as the Stewardship Code (comply or explain), to establish principles for measures to ensure transparency and protect intellectual property rights that should be taken by generative AI businesses, thereby aiming to ensure a safe and secure use environment for rights holders and users, in order to balance the promotion of advances in generative AI technology with the appropriate protection of intellectual property rights. In essence, this Principle-Code is designed to coordinate the interests of media, creators and other rights holders on the one hand, and AI developers and service providers on the other, regarding copyright and other intellectual property issues. It is linked to the Act on Promotion of Research, Development and Utilization of Artificial Intelligence-Related Technologies (Act No. 53 of 2025). Similarly to the Guidelines for AI Business Operators (jointly issued by the Ministry of Internal Affairs and Communications and the Ministry of Economy, Trade and Industry), the Principle-Code takes a guidance-based approach to balancing the interests of relevant stakeholders rather than imposing legally binding obligations.

Regulations under PIPA
Personal information may be acquired intentionally or unintentionally as training data for AI. In either case, under the PIPA the consent of the data subject is not required for such acquisition unless the personal information is sensitive personal information (see Q5) but the purpose of use must be specified and, in principle, notified to the data subject or made public.

In June 2023, the PPC issued a reminder to OpenAI, L.L.C. and OpenAI OpCo, LLC to implement measures to ensure that sensitive personal information is not included in information collected, and to notify both individual users and non-users or make public the purpose of use of the collected information.

The triennial review of the PIPA has been under discussion, and in June 2025 the PPC published the policy direction for the revision. After discussions with the business community, the amendment bill is expected to be submitted to the Diet in 2026. Key topics under consideration include the introduction of administrative surcharges, enhanced regulation of personally referable information, and easier use of personal data for statistical purposes. This revision will include the following important discussions on AI generation. The need for data analysis to create statistical information, including AI generation, is increasing and legal revisions are being considered that would allow the transfer of personal data to third parties and the acquisition of publicly available sensitive personal information without the consent of the individual, provided that the data is used only for the creation of statistical information. These provisions are in line with the exception clause to the Copyright Act and are intended to create an environment that encourages AI development.

EMPLOYEES/CONTRACTORS

General
Under Japan's employment and labour laws, employees are entitled to broad protections regarding their status, wages, working hours, and other aspects of their treatment in exchange for complying with the employer's directions and control. On the other hand, contractors are not subject to such directions and control, but perform contracted work based on their own judgment and responsibility. Employment and labour laws do not fully apply to contractors, except for certain aspects such as health and safety, and disaster compensation. However, the Freelance Act came into force on November 1, 2024 and provides some legal protection for contractors relating to transaction conditions and status. In Japan, unlike in the UK, there is no legal system that recognises a middle category between employees and the self employed and applies labour law to them only in part.

EMPLOYEES/CONTRACTORS, CONT'D

Distinction between employees and contractors
In practice, even if there is a formal contract which provides that a person is a contractor, there are often cases where the nature of the contract and the actual work performed indicate an employment relationship, which can lead to retroactive application of employment and labour law protections. Therefore, when entering a contract, it is important to determine whether the contract maintains the independence of the contractor and does not establish a relationship where the person is under the direction and control of the engaging party.

Employment agreement and work rules
When entering into an employment contract, a written notice of employment conditions must be provided to the employee that includes specified items. In practice, it is common to incorporate the contents of the notice of employment conditions into the employment agreement and treat them as a unified document. Additionally, for workplaces with ten or more employees, work rules must also be established relating to matters such as uniform labour conditions and disciplinary procedures and notified to the employees. When changing working conditions in a way that disadvantages employees, this change will not be recognised unless there is either genuine individual consent from the employees or a reasonable justification for the revision.

Employee Representative
Employers must conclude labour-management agreements with an employee representative on matters such as overtime work, holidays, wage deductions, and other statutory provisions. Additionally, an employer is obliged to consult with the employee representative when formulating or revising work rules. Employee representatives are selected democratically, either from a labour union representing the majority of employees, or, if there is no such union, by the majority of employees electing a representative. Employers are not permitted to unilaterally appoint employee representatives.

Registration with social security
Employers must register their employees for various social insurances and labour insurances and pay the statutory insurance premiums. These insurance schemes are compulsory in principle; however, contractors are permitted to enrol voluntarily in labour insurance (work-related accident insurance). Additionally, there is an obligation to report the employment of foreign workers who are not Japanese nationals to the Public Employment Security Office.

Termination
Employees have extensive employment protections. There are four main recognised types of termination:

- normal dismissal (termination based on the employee's failure to fulfil contractual obligations);
- organisational dismissal (termination due to business reasons);
- disciplinary dismissal (dismissal for an employee's violation of company rules); and
- retirement due to the expiration of a leave of absence (e.g., expiration of the sick leave period stipulated in the work rules)

When considering termination, it is crucial to collect information that substantiates the grounds for termination in addition to confirming whether there are any legal restrictions (e.g., during maternity leave or due to work-related accidents). Regardless of the reasons for the termination, and even if the termination is pursuant to a notice clause in the employment contract, it must be objectively reasonable. In cases where termination is difficult to justify when considering the specific situation, it may be desirable to try to make a peaceful mutual agreement by offering a severance package as an incentive for the employee to resign voluntarily. Additionally, when dismissing an employee, the employer must, under statutory procedure, either provide 30-days' advance notice of termination or pay compensation equivalent to 30 days of the employee's average wages in lieu of notice (for terminations other than dismissal, such legal obligation does not apply).

EMPLOYEES/CONTRACTORS, CONT'D

Harassment
Employers must take specific measures to prevent harassment. The required actions are as follows:

- Inform employees about the employer's policy on harassment;
- Establish a consultation desk for harassment-related concerns;
- Conduct appropriate investigations and implement recurrence prevention measures; and
- Ensure protection and consideration for individuals involved in harassment cases.

These obligations apply to power harassment, sexual harassment, and maternity harassment. In addition, harassment by customers has been included as a subject of regulation (enacted June 4, 2025; effective October 1, 2026). It should also be noted that contractors (freelancers) are afforded protection similar to that provided to employees against harassment under the Freelance Act.

CONSUMER PROTECTION

Japanese consumer protection is regulated by laws such as (i) the Consumer Contract Act (shohisha-keiyaku-ho), (ii) the Act on Specified Commercial Transactions (so-called "tokusho-ho"), and (iii) the Act against Unjustifiable Premiums and Misleading Representations (so-called "keihin-hyoji-ho"). All of these are applicable to foreign entities targeting consumers in Japan. Breach of these laws could lead to criminal penalties on the breaching company and any person at the company who was acting on behalf of the company, in addition to civil remedies.

Consumer Contract Act
The Act regulates unjust solicitations and unjust contractual provisions. If a consumer is induced to enter into a contract by solicitations that mislead or overwhelm the consumer, the consumer has the right to rescind the contract. The Act also stipulates that provisions that unjustly harm the interests of consumers shall be invalid.

Act on Specified Commercial Transactions
The Act regulates unjust solicitations, obligates delivery of documents, and prohibits false or misleading advertisements for specific commercial transactions, including e-commerce (e.g. selling goods or services to consumers via the Internet).

Act against Unjustifiable Premiums and Misleading Representations
The Act regulates misleading representations and offers of excessive premiums (discounts) in connection with a consumer transaction. Examples of misleading representations include (i) representations relating to the content or performance of goods or services as being better than the actual content or performance and (ii) representation of trade terms for goods or services as being more advantageous than the actual terms.

Also see section 9.

JAPAN

TERMS OF SERVICE

Yes. Terms of service are enforceable only if (i) the parties agreed to apply the terms of service as the terms of a contract (e.g. via a tick-box), or (ii) a business operator showed to consumers its intention to apply the terms of service as the terms of the contract in advance. Business operators must disclose the terms of service if requested by customers (except where the terms were already disclosed to customers). Further, terms must be in compliance with stringent consumer protection laws. Under the Consumer Contract Act and Civil Code, the following clauses in particular in terms and conditions or other contracts are held invalid:

1. clauses that totally exempt business operators from liability for damages caused intentionally or by gross negligence;
2. cancellation penalties that exceed the normal amount of damages caused by the cancellation
3. clauses that make consumers waive their right to cancel;
4. delayed damages that exceed an annual interest rate of 14.6%; and
5. clauses that (i) restrict the rights or expand the duties of the consumers beyond what would apply under the default rules (Civil Code, etc.), and (ii) unilaterally impair the interests of the consumers in violation of the principle of good faith (both (i) and (ii) must be met for the clause to be held invalid).

Restrictions to 3 - 5 above do not apply to business-to-business transactions.

Act on Specified Commercial Transactions
The Act obliges business operators including foreign companies to display important matters when placing an advertisement, and prohibits false or misleading advertisement; these include:

- the selling price of the goods or rights or the consideration for the services;
- the timing of payment and means of paying the charges for the goods or rights or the consideration for the services;
- the time at which the goods will be delivered, the time at which the rights will be transferred, or the time at which the services will be provided; and
- information concerning the withdrawal or cancellation of an offer for a sales contract for the goods, etc.

TAX/FUNDING

Tax

Japanese start-ups are typically organized in the legal form of corporations. Therefore, we limit our tax overview on the investment into start-ups organized as a Japanese corporation.

- **Corporate Tax:** Japanese corporations are subject to national and local corporate taxes, with an effective tax rate generally ranging from approximately 29% to 34%, depending on the size of the company and its annual income. A reduced national corporate tax rate of 15% applies to certain small and medium-sized enterprises for income up to JPY 8 million. To avoid double taxation, Japanese corporations are allowed to claim a tax credit against corporation tax for directly paid foreign income taxes. The creditable foreign tax is calculated using the following formula:
  - Corporate tax liabilities x (Foreign source income / Worldwide income taxable in Japan)
- **Consumption Tax:** Japan's consumption tax (similar to VAT) is levied at a standard rate of 10% on most goods and services. In principle, (i) a company with taxable sales in the base taxable period equal to or less than 10 million yen, or (ii) a newly established company with registered capital of less than 10 million JPY (for its first two fiscal years), is exempted from consumption tax obligation.
- **Withholding Tax:** Dividends, interest, and royalties paid to foreign entities are subject to withholding tax ("WHT"). WHT is deducted and paid by the dividend paying company to the tax administration. Rates can vary but it can be reduced under an applicable tax treaty.
- **Capital Gain Tax:** Capital gains derived from the sale of assets, such as real estate or securities, are generally subject to a flat tax rate of 20.315%. Exceptions can be applied depending on the type of asset and the investor's residency status.

TAX/FUNDING

Funding/Incentive Programs

In Japan, there are a variety of funding and tax incentive programs which may be applicable to a start-up (as well as companies at later stages) including the below. Since such programs are handled at both the local and national levels, different programs might be available depending on the place in which the start-up operates:

- **J-Startup: Startup Development Support Program:** Provides intensive support through public-private partnerships to selected companies with the potential to go global. Support includes preferential treatment in support measures such as subsidies, and simplified procedures (https://www.j-startup.go.jp/en/about/).
- **Seed Funding:** Government-backed financial institutions, such as the Japan Finance Corporation (JFC), offer seed funding and low-interest loans to new businesses (www.jfc.go.jp).
- **Incubation and Acceleration Programs:** Many local governments and private organizations collaborate to provide financial support and mentorship to startups through incubators and accelerators. For example, the Tokyo Metropolitan government offers a wide range of assistance such as the Infrastructure Support Subsidy for Foreign Financial Institutions (https://www.startupandglobalfinancialcity.metro.tokyo.lg.jp/gfct/initiatives/nurturing-players/attract-company/assist) and the Japanese Base Subsidy for Foreign Financial Institutions (https://www.startupandglobalfinancialcity.metro.tokyo.lg.jp/gfct/initiatives/nurturing-players/attract-company/establishment-subsidy).
- **Angel Tax System:** The Angel Tax System provides tax incentives to individual investors in venture companies. When an individual investor invests in a venture company, they can receive tax incentives at both the time of investment and at the time of sale (https://www.meti.go.jp/policy/newbusiness/angeltax/index.html).
- **R&D Tax Credit System:** The R&D Tax Credit System allows private companies to deduct a percentage (between 1% and 14%) of their R&D expenses from their corporate tax payments. Generally, the tax credit limitation for certain kinds of R&D is 25% of the corporate tax liability. An additional R&D credit of up to 10% for open innovation is also available (https://www.meti.go.jp/policy/tech_promotion/tax/about_tax.html).
- **Open Innovation Tax Incentive:** The incentive allows a domestic business corporation or its domestic CVC to deduct 25% of share purchase amounts in start-ups (partnerships and other similar business arrangements) from their taxable income. Those eligible are large companies that purchase JPY 100 million or more (and small companies that purchase JPY 10 million or more) in start-up shares (https://www.meti.go.jp/policy/economy/keiei_innovation/open_innovation/open_innovation_zei.html).

Funding/Incentive Programs

Investors can access detailed information and support through the following organizations:

- **Ministry of Economy, Trade and Industry (METI):** A key contact for information on subsidies, grants, and regulatory changes (www.meti.go.jp).
- **Japan External Trade Organization (JETRO):** Offers guidance, market entry support, and information on tax and subsidy programs (www.jetro.go.jp).
- **National Tax Agency (NTA):** Provides resources on tax filing, compliance, and international tax treaties (www.nta.go.jp).

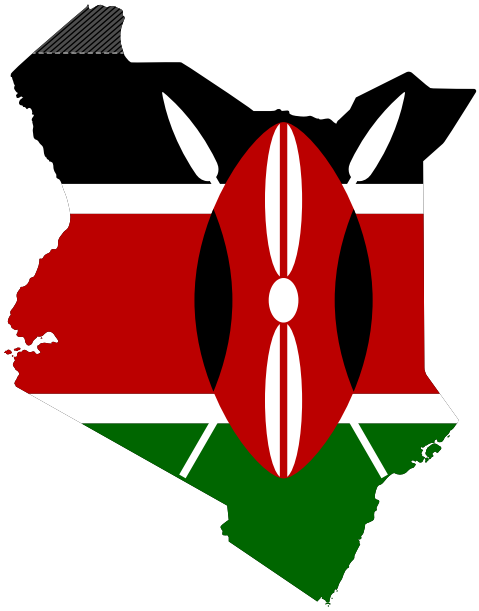
WHAT ELSE?

Startup Financing Environment: In April 2025, the Tokyo Stock Exchange (TSE) announced a proposal to raise the listing maintenance standard for the Growth Market from the current threshold (market capitalization of JPY 4 billion after 10 years of listing) to JPY 10 billion within 5 years of listing, with full application from 2030. This new standard is expected to significantly affect the fundraising and exit strategies of startups and VCs. Separately, the Japan Securities Dealers Association (JSDA) and the Financial Services Agency (FSA) have been discussing measures to promote the supply of growth capital to startups, including through the report of the Consultative Meeting on Growth Capital Supply to Startup Enterprises (published September 2025). The FSA's Financial System Council is also considering revisions to securities regulations, such as raising the threshold for securities registration statement exemptions, to facilitate startup fundraising. In addition, the Ministry of Economy, Trade and Industry (METI) published an updated version of its Startup Investment Agreement Guidelines (September 2025) and a revised Model LPA for Investment Limited Partnerships (June 2025), both of which provide updated templates reflecting current investment practices and governance expectations.

Exchange Control Regulations: Payments or transfers of money between a resident and non-resident of Japan (for example, a payment by a resident to a non-resident or payment by a non-resident to a resident) for an amount exceeding JPY 30 million requires a report to the Bank of Japan under the Foreign Exchange and Foreign Trade Act, though a failure to make the report does not affect the validity of the transaction.

Japanese Culture: Although it is changing, Japan has some unique cultural aspects which would be useful for a foreign investor to consider before entry into the Japanese market; these include:

- whilst the general increase of Japanese companies conducting business overseas has led to the broader acceptance of the use of signatures, traditional seals (hanko) may still be used in some formal contexts.;
- decision-making of Japanese corporations can take time as multiple layers of approvals are often required;
- high value is placed on the practice of exchanging business cards in Japan;
- Japanese people express themselves indirectly to be polite;
- a contract can be seen as the basis of a relationship in addition to the terms set in stone; and
- although formal dispute resolution mechanisms are available and increasingly used, disputes are expected to be settled based on reasonableness rather than strictly enforced legal terms.



KENYA

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KENYA
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KENYA

LEGAL FOUNDATIONS

Kenya follows the English **common law system**. It thus relies heavily on judicial precedent, with decisions of superior courts binding on all lower courts.

Kenya's judicial system is divided into superior and subordinate courts. The superior courts, in order of precedence, are the Supreme Court of Kenya, the Court of Appeal, and the High Court together with the specialized courts of equal status, namely: the Employment and Labour Relations Court and the Environment and Land Court. The subordinate courts are all of equal status and include the Magistrates Courts, the Kadhis' Courts, the Courts Martial, and any other court or tribunal as may be established by an Act of Parliament.

Kenya's legal system draws from multiple sources of law, including the constitution, statutory law, English common law, customary law, and Islamic law. The Judicature Act delineates the hierarchy of laws as follows: the Constitution; written laws; subject to necessary qualifications, the substance of common law, the doctrines of equity and the statutes of general application in force in England on the 12th August 1897; and African customary law. In addition, the general rules of international law as well as any treaty or convention ratified by Kenya forms part of Kenyan law pursuant to the Constitution. The Constitution is the supreme law of the Republic. Accordingly, any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission that contravenes it is invalid.

Kenya is a unitary state with a devolved system of government comprising the National Government and 47 county governments. The National Government is responsible for national functions, including international trade; national economic policy and planning; monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations; intellectual property rights, labour standards; consumer protection; tourism policy and development; and the enactment of primary legislations on those areas. County governments exercise limited legislative authority over specific devolved functions such as trade development and regulation, including markets, trade licenses (excluding regulation of professions), fair trading practices, local tourism and cooperative societies.

KENYA

CORPORATE STRUCTURES

There are various business structures under Kenyan law. The choice depends on the activities or objectives of the proposed business. The following options are available:

Limited Liability Company

A limited liability company is a form of business entity created by incorporation under the Companies Act, 2015 (Chapter 486, Laws of Kenya) and having a certificate of incorporation issued by the Registrar of Companies as conclusive evidence of its existence. It may either be private or public. Private LLCs are the most preferred structure for business (for profit) startups in Kenya.

A private LLC is required to have a minimum of 1 director, who must be a natural person and a minimum of 1 and a maximum of 50 shareholders. There is no restriction on the nationality of the directors or shareholders. An LLC normally has a share capital and liability is limited to any amount unpaid on the shares held by the shareholders.

The advantages and disadvantages of LLCs include:

ADVANTAGES

- It is a separate legal entity distinct from its shareholder(s) and in the event that it is a subsidiary, it is distinct from the parent/holding company
- Liability is limited unless the corporate veil is lifted (e.g. on account of fraud)
- Has perpetual succession and can own property, sue and be sued in its own name

DISADVANTAGES

- The LLC must commence business within one year from date of issuance of the certificate of incorporation
- Subject to stringent statutory compliance requirements under the Companies Act

Partnership

Partnerships are provided for under the Partnerships Act (Chapter 29, Laws of Kenya). A partnership is defined in section 2 of the Act as the relationship which exists between persons who carry on business in common with a view to making a profit. Each partner in a partnership has unlimited liability unless it is a limited partnership with one or more general partners, each with unlimited liability or limited partners with limited liability.

Each partner in a partnership has responsibility for the business of the partnership and is an agent of the partnership for the purpose of the business of the partnership. Partners are jointly and severally liable for the debts of the business in their personal capacities. Generally, partnerships are best suited for professional practices which are regulated by laws that do not permit operation of limited liability companies in the provision of professional services.

CORPORATE STRUCTURES, CONT'D

Limited Liability Partnership (LLP)

LLPs are a unique form of business association in Kenya that combines elements of a company with those of a partnership. LLPs are governed by the Limited Liability Partnership Act (Chapter 30, Laws of Kenya) (the **LLP Act**).

An LLP must have at least two partners. There are no restrictions on who may become a partner. Therefore, foreigners may be partners. The LLP must also have at least one manager to participate in the overall management of the LLP who should be a natural person aged at least 18 years and a resident of Kenya. The manager is personally responsible for ensuring that the LLP complies with routine statutory filing requirements as to solvency and changes in its particulars.

The advantages and disadvantages of LLPs include:

ADVANTAGES

- It is a separate legal entity distinct and apart from its partners.
- Liability of the partners is limited and partners' personal assets are protected, except in cases of fraud or wrongful acts committed personally by the partners. A partner is not personally liable for the wrongful act or omission of another partner
- Subject to fewer statutory compliance requirements compared to an LLC.
- Has perpetual succession and can own property, sue and be sued in its own name
- Profit is generally taxed at the partner level rather than at the LLP level, avoiding double taxation of profits and dividends.

DISADVANTAGES

- Requires at least one resident manager, which may be a hurdle for fully remote or foreign-based startups.
- Must have at least two partners, unlike an LLC which can be operated by a single director/shareholder
- The manager is personally liable for penalties resulting from failure to file annual returns or maintain records.

Sole Proprietorship

A sole proprietorship is a business registered with the Registrar of Business Names owned and conducted by one person either in their own name or under a business name. The governing law is the Registration of Business Names Act (Chapter 499, Laws of Kenya). The registration of a business name only confers on the proprietor the right to trade under that name but does not confer any corporate status either on the proprietor or on the business.

A sole proprietorship is best suited for very small or low risk operations, or as a transitional structure for entrepreneurs who may later adopt an LLC or LLP as the business grows or seeks investment. Its main limitation, i.e., the lack of limited liability and separate legal identity, makes it unsuitable for most startups beyond the earliest stage.

CORPORATE STRUCTURES, CONT'D

Sole Proprietorship (CONT'D)

The advantages and disadvantages of a sole proprietorship include:

ADVANTAGES

- Simple and inexpensive to set-up.
- Minimal ongoing compliance obligations as there is no requirement to file annual returns, no board level governance, and no requirement for audited financial statements.

DISADVANTAGES

- No separate legal personality. The business and the proprietor are legally the same.
- The proprietor is personally liable for all debts and obligations of the business.
- Difficult to bring in partners or convert ownership without restructuring.
- Not attractive to investors or lenders since it lacks share capital or equity structure.

Branch of a foreign company

A foreign company can establish operations in Kenya in the form of a branch of a foreign company by obtaining a Certificate of Compliance from the Registrar of Companies. The Certificate entitles the branch to conduct business in Kenya and to carry on all the activities it is entitled to do under the constitutive documents of the foreign company.

The advantages and disadvantages of a branch of a foreign company include:

ADVANTAGES

- The registration process is fairly straightforward.
- There is no minimum or maximum number of directors required or restriction on the nationality of the directors. Branches are, however, required to appoint at least one local representative who must be resident in Kenya and would be answerable for all the activities of the branch and its obligations under the Companies Act.
- There is no requirement to hold annual general meetings.
- A branch is only required to file a notice of particulars of changes where there has been a change to the particulars of the foreign company such as the name, constitutive documents, directors and their particulars, local representative, and registered office.
- The deregistration process is fairly straightforward.

DISADVANTAGES

- Branches of foreign companies are excluded from participating in certain Government contracts which are reserved for Kenyan companies in line with Government policy. The Government of Kenya does not give grants to foreign companies.
- The foreign company is liable for the actions of the branch

ENTERING THE COUNTRY

There are generally no foreign investment restrictions save for companies operating in certain specific sectors set out below:

The aviation sector
A body corporate or partnership applying for a license to provide air services in the civil aviation industry is required under Regulation 5 (1)(b) of the Civil Aviation (Licensing of Air Services) Regulations, 2018, to ensure that at least 51% of the voting rights are ultimately held by the government or a Kenyan citizen, or both. Air services are defined as any service performed by means of an aircraft for hire or reward including air transport service, aerial work and flight training.

The insurance sector
The Insurance Act (Chapter 487, Laws of Kenya) has a one-third (33%) minimum equity shareholding by citizens of the East African Community bloc for entities licensed as insurers. In terms of insurance brokers, the legislation requires that at least 60% of its equity is owned by Kenyan citizens or companies.

Retirement benefits scheme administrators
An entity seeking registration as a scheme administrator under the Retirement Benefits Authority Act (Chapter 197, Laws of Kenya) is required to ensure that at least 33% of its equity is owned by Kenyan citizens, unless the entity is a bank or an insurance company.

The mining sector
Under the Mining Act (Chapter 306, Laws of Kenya), firms seeking a license for the small-scale mining operations must have at least a 60% shareholding by Kenyan citizens. Further, the government is granted broad powers to designate any area of land to be an area reserved exclusively for small-scale mining operations. This has the implication of making the foreign shareholding restriction applicable to any firm as the restriction kicks in once such a designation is made by the government ministry.

The private security sector
The Private Security Regulation Act (Chapter 207, Laws of Kenya) requires foreign firms seeking a license to offer private security services in Kenya to ensure that at least 25% of their shareholding is held by Kenyan citizens.

The architectural sector
Partnerships between persons registered with the Board of Registration of Architects and Quantity Surveyors and an unregistered person (foreign firms) is permitted as long the registered person owns a minimum of 51% of the shares in such a partnership. Effectively, unregistered firms are restricted to a maximum of 49% ownership in an architectural business.

KENYA

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any mark used or proposed to be used to distinguish the goods or services of one undertaking from those of another, or to indicate a commercial connection between the goods or services and the proprietor or registered user, is protectable. Section 2 of the Trade Marks Act defines a mark to include a distinguishing guise, slogan, device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof whether rendered in two-dimensional or three-dimensional form.

Where to apply? Trade marks are registered with the Kenya Industrial Property Institute (KIPI).

Duration of protection? Upon registration, a trade mark remains valid for a period of ten years from the date of filing the application for registration following which it may be renewed for further consecutive periods of ten years each.

Costs? The application cost is US$ 410 for the first class (US$ 200 application fee, US$ 150 registration fee and US$ 60 advertisement fee) and US$ 300 (US$ 150 application fee, US$ 100 registration fee and US$ 50 advertisement fee) for each subsequent class. A power of attorney fee of US$ 50 is payable per application. These costs do not cover attending to further requirements by the Registrar or oppositions from third parties

Patent

What is protectable? An invention is patentable if it is new (not anticipated by prior art), involves an inventive step (it is not obvious to a person skilled in the art), and is industrially applicable (it can be made or used in any kind of industry). An invention is defined to mean a solution to a specific problem in the field of technology. Non-patentable subject matter includes discoveries or findings that are products or processes of nature where mankind has not participated in their creation, scientific theories and mathematical methods; schemes, rules or methods for doing business, performing purely mental acts or playing games; methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced in relation thereto; mere presentation of information; plant varieties; inventions contrary to public order, morality, public health and safety, principles of humanity and environmental conservation; and public health related methods of use or uses of any molecule or other substance used for the prevention or treatment of any disease which the Cabinet Secretary responsible for health may designate as a serious health hazard or a life threatening disease.

Where to apply? Patent applications can be filed with (i) the Kenya Industrial Property Institute (KIPI), (ii) the African Regional Intellectual Property Organization (ARIPO) under the Harare Protocol on Patents and Industrial Designs (iii) the World Intellectual Property Organization (WIPO) under the Patent Cooperation Treaty (PCT).

Duration of protection? Upon grant, a patent remains valid for a period of 20 years from the date of filing the application for registration. Annuities on the patent are payable from the eve of each anniversary date of filing the application.

Costs? The application costs are broken down as follows:

- Application fee: US$ 150.00
- Each claim in excess of ten: US$ 20.00
- Power of Attorney fee: US$ 50.00
- Request for substantive examination: US$ 250.00
- Publication fees: US$ 150.00
- Grant of Patent: US$ 150.00

INTELLECTUAL PROPERTY, CONT'D

Utility Model

What is protectable? Inventions that are new and industrially applicable. Only models which can be utilized in industry, agriculture, education services or environmental conservation and which relate to shape, structure or assemblages of articles are entitled to utility model registration.

Where to apply? Utility models are registered with the Kenya Industrial Property Institute (KIPI).

Duration of protection? Upon registration, a utility model remains valid for a period of 10 years from the date of filing the application for registration and it is not renewable.

Costs? The application costs are broken down as follows:

- Application fee: US$ 50.00
- Each claim in excess of ten: US$ 20.00
- Power of Attorney fee: US$ 50.00
- Publication fees: US$ 150.00
- Grant of Utility Model Certificate: US$ 150.00

Industrial Designs

What is protectable? An industrial design is defined as the overall appearance of a product resulting from one or more visual features of the shape, configuration, pattern or ornamentation of a product. For an industrial design to be registrable, it must be novel/new – which means it is not identical or substantially similar in overall impression to an industrial design that has been disclosed to the public anywhere in the world, by publication, in tangible form or, in Kenya, by use or in any other way, prior to the filing date or where applicable, priority date. Industrial designs which serve solely to obtain a technical result, methods or principles of manufacture or construction; designs contrary to public order or morality and designs protected under the Copyright Act are not registrable.

Where to apply? Industrial designs are registered with the Kenya Industrial Property Institute (KIPI).

Duration of protection? Upon registration, an industrial design remains valid for a period of 5 years from the date filing of the application for registration following which it may be renewed for two further consecutive periods of five years each.

Costs? The application costs are broken down as follows:

- Application fee: US$ 150.00
- Power of Attorney fee: US$ 50.00
- Publication fees: US$ 150.00
- Registration of an industrial design: US$ 50.00

Copyright

What is protectable? Works eligible for copyright include: literary works, musical works, artistic works, dramatic works, audio-visual works, sound recordings, broadcasts, and computer programs.

Where to apply? Copyright registered with the Kenya Copyright Board (KECOBO).

Duration of protection? For literary, musical, dramatic or artistic work other than photographs, during the lifetime of the author, plus 50 years after his death. For audio-visual works and photographs, 50 years from the end of the year in which the work was either made or published. For sound recordings, 50 years after the end of the year in which the recording was made. For broadcasts, 50 years after the end of the year in which the broadcast took place.

Costs? The application cost is KES 100 per work for natural persons and KES 500 for corporate entities. For software, the cost is KES 500 per software registration for natural persons and KES 1,000 for corporate entities.

INTELLECTUAL PROPERTY, CONT'D

Unregistered IP Rights

The following IP rights cannot be registered:

Trade Secrets

Kenya has not enacted specific statutory legislation to protect trade secrets. However, Kenya is a party to the TRIPS Agreement which requires members to work towards protection of any undisclosed information. Kenyan law offers legal protection of trade secrets through common law under equity or on a contractual basis based on protection of confidentiality.

DATA PROTECTION/PRIVACY

Kenya has in place a modern privacy regime that is substantially modelled on the GDPR. The Data Protection Act, Cap 411C (the DPA) and the regulations thereunder were enacted to give effect to the constitutional right to privacy, regulate the processing of personal data, provide for the rights of data subjects and obligations of data controllers and processors, and establish the Office of the Data Protection Commissioner (ODPC). Kenya's data protection regime has evolved rapidly due to the active enforcement by the ODPC and has now become a central, economically relevant factor for businesses.

The DPA defines a "data controller" as a "natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purpose and means of processing of personal data and a "data processor" as "a natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller.

Relevant statutory provisions and general obligations include:

- Section 4 provides for the application of the DPA. It provides that the DPA applies to processing of personal data by a data controller or data processor who is established or ordinarily resident in Kenya and processes personal data while in Kenya; or not established or ordinarily resident in Kenya but processing personal data of data subjects located in Kenya.
- Section 18 provides that no person shall act as a data controller or data processor unless registered with the Data Commissioner. The Data Protection (Registration of Data Controllers and Data Processors) Regulations require all data controllers and processors who have an annual turnover or annual revenue above KES 5 million and more than ten (10) employees to register with the ODPC. However, registration is mandatory for entities who do meet the above thresholds but who are engaged in specified data processing activities such as telecommunications network or service providers; businesses that are wholly or mainly in direct marketing; and transport services firms (including online passenger hailing applications).
- Section 25 provides that data must be processed in a manner that upholds the data subject's right to privacy; lawfully; limited to the purpose for which it is collected; limited to the purpose for which it is collected; accurate and up to date; kept in a form which identifies the data subjects for no longer than is necessary; and not transferred outside Kenya save as permitted in the Act.
- Section 26 provides for the rights of data subjects which include the right to: be informed of the use to which their personal data is to be put; access their personal data in custody of data controller or data processor; object to the processing of all or part of their personal data; correction of false or misleading data; and deletion of false or misleading data about them.
- Section 43 requires data controllers to employ appropriate security measures to prevent the unauthorized access, disclosure or loss of the personal data collected by them. In the event of breach, they are required to report it to the Data Protection Commissioner within 72 hours and to the affected data subjects without undue delay.

In terms of non-compliance, Section 73 provides for a general penalty of a fine not exceeding KES3 million (approximately USD30,000) or imprisonment for a term not exceeding 10 years, or to both.

Section 63 provides for administrative fines to the effect that the maximum amount of the penalty that may be imposed by the ODPC in a penalty notice is up to KES5 million (approximately USD50,000), or in the case of an undertaking, up to 1% of its annual turnover of the preceding financial year, whichever is lower.

ARTIFICIAL INTELLIGENCE

Currently there is no legal regulatory framework for AI in Kenya. However, the country is actively transitioning towards a structured AI governance environment. Kenya's regulatory posture is currently evolving, with the publication and launch of the National Artificial Intelligence Strategy 2025–2030 (the Strategy) marking a turning point in the country's approach to AI governance.

The Strategy was launched in March 2025 by the Ministry of Information, Communications, Technology & the Digital Economy making Kenya the 16th African country to outline its vision and positioning with respect to the growing use of AI. The objective of the Strategy is to establish a robust governance framework for AI by providing a comprehensive roadmap to guide the development, deployment, and governance of AI in Kenya. The strategy aims to position Kenya as a regional leader in AI research and development, innovation and commercialization for socioeconomic development.

The strategy is centred on three foundational pillars of AI Digital Infrastructure, Data, and AI Research & Innovation, marking a pivotal, proactive step in the country's digital transformation journey and provides a forward-looking framework in addressing regulatory uncertainty and responsible innovation to businesses, investors and cross-sectoral collaboration in AI innovation.

While Kenya does not yet have specific AI law or regulations, existing laws such as the Data Protection Act and the Copyright Act provide a foundational framework for addressing issues related to AI.

The Data Protection Act and Automated Decision-Making – Section 35 of the DPA imposes restrictions on automated decision-making and profiling. It provides for every data subject's right to not be subjected to a decision based solely on automated processing, including profiling, which produces legal effects concerning or significantly affecting the data subject. Organizations must therefore implement human-in-the-loop review where decisions have legal or similar significant effects on individuals.

Copyright Act – AI developers must consider Kenyan copyright law as training AI models on copyrighted content without authorization may raise infringement risks under the Copyright Act, especially where data is scraped from online sources.

EMPLOYEES/CONTRACTORS

General: Employment relationships in Kenyan are regulated by the Constitution, statute, contract and/or a Collective Bargaining Agreement (CBA) in the case of unionised employees. The Employment Act, 2007 is the primary law on employment in Kenya. It includes, among others, provisions on the minimum terms and conditions of employment, wages, discrimination, sexual harassment, leave and termination.

Other relevant laws include the Employment and Labour Relations Court Act, 2011, Labour Relations Act, 2007, Labour Institutions Act, 2007, Occupational Safety and Health Act, 2007 and Work Injury Benefits Act, 2007.

Engaging employees: The following types of employment contracts are recognised in Kenya: fixed-term contracts; open-ended contracts (permanent employment); probationary contracts; contracts to perform specific work; casual employment contracts; and foreign contracts of service.

A contract may be either written or oral. Any contract for more than three months or requiring a task to be performed in an aggregate period exceeding three months from the commencement of employment must be provided with certain minimum terms in writing. A written contract must be presented to an employee within two months of employment.

Engaging independent contractors: Independent contractors can be engaged directly by a personal services company and the terms of service are regulated by the contract for service between the company and the independent contractor.

Independent contractor agreements can, however, be deemed by a court to be employment contracts where the degree or level of control conferred by the terms of the contract on the person giving the services or where certain elements of the relationship indicate an employer/employee relationship rather than an independent contractor relationship.

Work for hire regime: Kenya has a statutory work for hire regime. Under Section 31 of the Copyright Act, where a work is made in the course of the author's employment, the copyright is deemed to be transferred to the employer, unless there is an agreement to the contrary. However, for independent contractors, the copyright remains with the author unless it is assigned in writing to the hiring entity.

Employer obligations: Every employer is required to register for the following mandatory employer obligations: Pay As You Earn (PAYE), National Social Security Fund (NSSF), Social Health Insurance Fund (SHIF), Affordable Housing Levy (AHL), and National Industrial Training Authority Levy (NITA).

Termination: Kenyan law imposes two conditions for the lawful termination of employment: a) valid reasons (substantive fairness); and b) adherence to a fair procedure (procedural fairness). Both elements must be fulfilled otherwise any termination would be deemed to have been unfair for which damages of up to 12 months' worth of salary or an order of reinstatement can be imposed by the ELRC.

The employment relationship may be brought to an end through any of the following grounds: resignation; termination by the employer – by giving the contractual notice or by payment in lieu of notice; summary dismissal – subject to the laid down disciplinary procedure in statute and employer's policies; redundancy – subject to the laid down procedure in statute; end of probation/confirmation of employment; mutual agreement of the parties – whereby the parties to an employment contract mutually agree to terminate the contract on the basis of mutual undertakings between them e.g. waiver of claims, confidentiality, future cooperation, etc.; expiry of fixed time; or retirement.

KENYA

CONSUMER PROTECTION

Article 46(1) of the Constitution guarantees consumers the right to:

- goods and services of reasonable quality;
- information necessary for them to gain full benefit from goods and services;
- protection of their health, safety, and economic interests; and
- compensation for loss or injury arising from defects in goods or services.

The Consumer Protection Act provides for the protection of the consumer and the prevention of unfair trade practices. It enumerates consumer protection provisions in greater detail and prohibits unfair practices such as false representation, unconscionable representation, renegotiation of price. It also sets out the rights and obligations of consumers relating to specific consumer agreements.

The Consumer Protection Act establishes the Kenya Consumer Protection Advisory Committee to advise the Cabinet Secretary on consumer protection and consumer welfare matters.

Further, the Competition Act contains provisions on consumer welfare addressing false or misleading representations, unconscionable conduct, product safety standards and unsafe goods, and product information standards.

TERMS OF SERVICE

Under Kenyan law, online terms of service (ToS) are enforceable only if they meet mandatory consumer-protection, e-commerce, contract law, and where applicable, data protection requirements. Contracts formed electronically are valid in Kenya. Online ToS become enforceable only, if consumers have explicitly agreed to them. A click-wrap (tick-box) mechanism is the industry standard to demonstrate informed consent. Section 31 of the Consumer Protection Act (CPA) requires that certain prescribed information such as price be disclosed to the consumer before they enter an internet agreement, and such disclosure shall be accessible and shall be available in a manner that ensures that the consumer has accessed the information and is able to retain and print the information. The CPA prohibits unfair practices such false representation, renegotiation of price and unconscionable representations.

The following clauses are likely to be held void or invalid:

- Any provision that purports to negate or vary any implied condition or warranty under the Sale of Goods Act (Cap. 31) or any condition or warranty under the CPA is void.
- Clauses excluding liability for death, bodily injury, or gross negligence are unenforceable.
- Clauses allowing a business to change prices or service scope without informing the user or allowing them to cancel are viewed as unconscionable.

TAX/FUNDING

Taxation in Kenya is governed by a number of laws, depending upon the tax.

Persons doing business in Kenya are required to register for a tax Personal Identification Number (PIN), which is issued by the Kenya Revenue Authority (KRA) and where the business has employees, they are also required to register with National Social Security Fund (NSSF), Social Health Insurance Fund (SHIF) formerly, National Hospital Insurance Fund and National Industrial Training Authority.

Corporate Income Tax

Resident entities e.g. LLC

Companies incorporated in Kenya are residents for tax purposes. The corporation tax rate for resident companies is 30%. In calculating their adjusted taxable profit, resident companies can take a deduction of expenses wholly and exclusively incurred in the generation of its income. Further, in calculating the tax due, resident companies can set-off from the tax payable in a year, other income taxes paid in the year such as withholding tax and advance tax.

Branch of a foreign of company

The income of a branch which is accrued in or derived from Kenya during a year of income is chargeable at 30%, together with an additional 15% tax on repatriated income.

In determining a branch's taxable income, expenses that are wholly and exclusively incurred in the production of income for the year, are deductible when computing taxable income. The Income Tax Act, however, restricts the deductibility of head office expenses by a branch.

Value Added Tax (VAT)

VAT is an indirect tax which is levied on the supply of taxable goods and/or services made in Kenya. VAT in Kenya is governed by the VAT Act, 2013 which provides for the imposition of VAT on goods and services. The VAT Act, 2013 sets out the VAT registration turnover threshold of KES5 million (Approximately USD39,000) in any 12-month period, which if attained or expected to be attained by a taxable person, requires the person to register for VAT.

Supplies are either taxable (charged VAT at the standard rate of 16%, or zero rated) or exempt depending on their classification in the VAT Act, 2013. A registered person must compute the tax payable by deducting the input tax incurred from the output tax due.

Withholding Tax (WHT)

WHT must be deducted by the person making certain specified payments and remitted to the KRA. The payments that would trigger withholding tax include dividends, royalties, management, technical, professional fees, training fees, consultancy fees and contractual fees.

The WHT rates prescribed in the ITA range from 3% to 30% depending on the payment and whether the recipient is resident in Kenya. These rates can however be varied by a Double Taxation Agreement between Kenya and the recipient's country of residence.

Thin Capitalization rules

In Kenya, an entity is considered thinly capitalized where it is funded through debt and the gross interest paid or payable to non-resident persons exceeds 30% of the company's earnings before interest, taxes, depreciation, and amortization (EBITDA) in any financial year.

The effect of thin capitalization as per section 16(2)(j)(iv) of the Income Tax Act (ITA) is that the interest expenses payable in excess of 30% of EBITDA shall only be an allowable deduction in ascertaining the total income of an entity in the subsequent three years of income to the extent that the deduction of interest on loans from non-resident persons does not exceed the 30% threshold.

Further, as per Section 4A (1) (ii) of the ITA any foreign exchange losses attributed to debt financing shall be deferred and can only be claimed over a period of not more than five years from the date the loss was realized by an entity whose gross interest paid or payable to a non-resident person exceeds 30% of EBITDA in any year of income.

TAX/FUNDING, CONT'D

Transfer Pricing rules

Section 18(3) of the Income Tax Act as read together with the Income Tax Act (Transfer Pricing) Rules, 2006 provide that transactions between related parties including provision of services shall be subject to the transfer pricing rules and shall be conducted at arm's length.

Section 2 of the Income Tax Act defines a "related person" to mean in the case of two persons where a person who participates directly or indirectly in the management, control or capital of the business of another person. Accordingly, the Transfer Pricing rules require that related parties develop a transfer pricing policy which outlines the roles and functions of each party to guarantee that it is properly compensated at arm's length in the intercompany dealings.

Please note however that in 2025, the Income Tax Act was amended to introduce Advance Pricing Agreements (APAs). Under this, taxpayers can agree with the Kenya Revenue Authority ("KRA") in advance the appropriate arm's length compensation with the agreement valid for five consecutive years. The regulations implementing APAs are yet to be finalized. Once finalized, APA can offer additional security to entities in relation to its arm's length intercompany dealings.

Taxation of Employee share ownership plan ("ESOP")

Stock options are considered benefits which accrue by virtue of employment and form part of employment income which is subject the employment income tax.

The value of the benefit is therefore computed at the difference between the offer price (per share) at the grant date and the market value of the share (per share) on the date the member exercises the option.

Payroll Obligations

Where startups engage employees, they are required to account for the following employment taxes and statutory deductions on the emoluments paid to the employees.

Pay As You Earn (PAYE)

The entity is required to deduct PAYE from the employees' gross salaries and remit to KRA by the 9th day of the following month.

The individual tax rates applicable for PAYE are based on graduated tax bands. The current tax bands are as tabulated below:

Monthly Tax Bands	Rate of Tax
On the first Kshs 24,000	10%
On the next Kshs 8,333	25%
On the next Kshs 467,667	30%
On the next Kshs 300,000	32.5%
On all income above Kshs 800,0000	35%

TAX/FUNDING, CONT'D

Payroll Obligations, CONT'D

Where an employer fails to deduct and remit PAYE within the prescribed timelines, a penalty of 25% of the taxes due or Ksh.10,000, whichever is higher, will be imposed.

Affordable Housing Levy ("AHL")

This levy is imposed monthly and payable as follows:

1. 1.5% of the employee's gross monthly salary* for the employee; and
2. 1.5% of the employee's gross monthly salary for the employer.

*Please note that the definition of gross salary for the purposes of AHL excludes noncash benefits as well as benefits not paid regularly such as leave allowance, bonus, gratuity, pension, severance pay or any other terminal dues and benefits.

Social Health Insurance Fund ("SHIF")

This is a statutory fund for basic medical insurance and is mandatory for all employers in Kenya. Therefore, employers are required to register for this fund and deduct SHIF contributions from the monthly remuneration of its employees at 2.75% of their gross salaries and remit it to the Social Health Authority monthly.

SHIF contributions should be remitted on or before 9th of the following month. Failure by an employer to deduct and remit SHIF attracts a penalty of 2% of the outstanding amount for each month the payments remain unpaid.

National Social Security Fund ("NSSF")

This is a mandatory national fund meant to provide for basic social security of all persons who are resident in Kenya. Employers are required to register and make monthly contributions of the prescribed amount by both the employer and the employee.

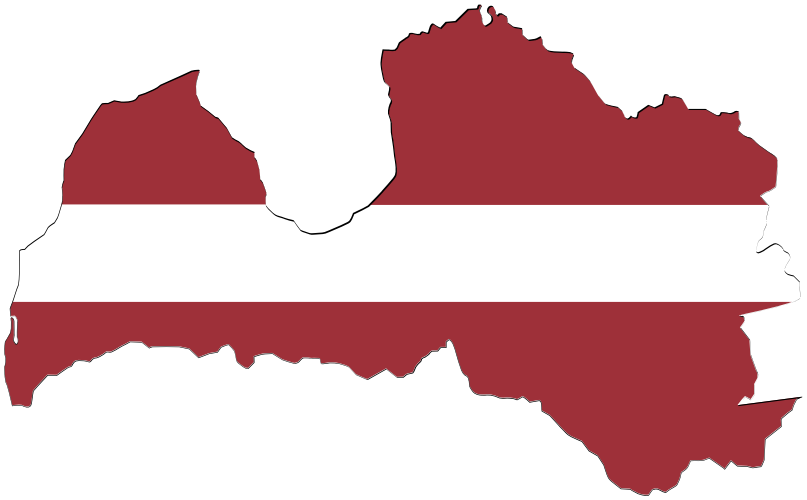
The employee's portion is deducted from his or her salary and the total amount is paid by the employer to NSSF.

NSSF contributions should be remitted on or before 9th of the following month. Failure to pay the contributions attracts a 5% penalty for each month that the amount due remains unpaid.

National Industrial Training Authority ("NITA") Levy

This is a mandatory levy meant to promote industrial training in Kenya. Every employer is required to register for NITA and pay Kenya Shillings Fifty (Ksh.50/-) per employee to NITA.

NITA contributions should be remitted by 9th of the following month. Failure to pay the levy attracts a 5% penalty for each month that the amount due remains unpaid.



LATVIA

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LATVIA

LEGAL FOUNDATIONS

Latvia follows the **civil law system**, as it relies on written statutes for governance in the form of laws (as passed by the Parliament of Latvia), regulations (adopted by the Cabinet of Ministers, based on authorization from the Parliament) and municipal regulations (passed by local municipalities).

Private law governs the relationships between private individuals (e.g., property rights, contracts, torts, employment, commercial activities, etc.) The main source of private law is the Civil Law ("Civillikums"). In addition, there are various sectorial laws, such as Employment law, Commercial law, etc.

Administrative law governs the relationship between the state and the individual. Main sources of administrative law are Law on Administrative Liability ("Administratīvās atbildības likums"), Administrative Procedure Law ("Administratīvā procesa likums") and main sectoral laws which also contain provisions for administrative liability, for example:

- Matters of taxes are mainly governed by the law On Taxes and Fees ("Par nodokļiem un nodevām").
- Consumer relations are mainly governed by the Consumer Rights Protection Law ("Patērētāju tiesību aizsardzības likums") and Unfair Commercial Practices Prohibition Law ("Negodīgas komercprakses aizlieguma likums").

Criminal law determines criminal offences and outlines specific punishment for these offences. The sole codex of criminal offences in Latvia is the Criminal Law ("Krimināllikums"). No other law contains provisions as the basis of criminal liability. Criminal Procedure Law ("Kriminālprocesa likums") codifies procedural aspects for criminal proceedings.

As a Member State of the European Union Latvia is also subject to EU Regulations, including the General Data Protection Regulation, the Artificial Intelligence Act etc.

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Commercial Law of Latvia ("Komerclikums") provides the following forms of companies:

Limited liability company (sabiedrība ar ierobežotu atbildību):

A limited liability company, known as sabiedrība ar ierobežotu atbildību ("SIA") is the most preferred choice of corporate structures amongst foreign investors. Shareholders of SIA are subject to limited liability and are considered separate from the company.

Requirements:

- Minimum share capital of EUR 2800.
- At least one (or more) founders (shareholders) that can be either a natural person or a legal entity.
- Management board comprises of at least one board member.
- Supervisory board is not mandatory.
- Share capital must be contributed in cash or through in-kind contributions.
- For smaller enterprises, an alternative option is the establishment of a limited-capital SIA, with an initial share capital of as little as EUR 1. Although it functions as an ordinary SIA, specific limitations apply, i.e.:
  - Founders (shareholders) are limited to natural persons (up to five individuals);
  - The board consists exclusively of shareholder members, and each shareholder of the company must be a shareholder to only one limited-capital SIA.

Stock company (akciju sabiedrība):

A stock company, known as akciju sabiedrība ("AS") is a public company, the shares (stocks) of which may be publicly tradable objects.

The main difference between a stock company and a limited liability company lies in the higher equity capital requirement of the initial, coupled with the requirement of a mandatory supervisory council with a minimum of three members. Consequently, a stock company proves to be a less attractive option for startups.

Requirements:

- Minimum share capital of EUR 25'000.
- The company is administered by the meeting of stockholders, supervisory council (an institution which represents the interests of stockholders and oversees the management board), and a board.
- The supervisory council must consist of a minimum of three members and a maximum of 20 members. However, in cases where a company's stocks are publicly traded, the optimal number of council members is five to seven.
- The board may consist of one or several members. Stock company's board member cannot simultaneously hold a position as a member of the stock company's council, auditor, or a member of the council of the controlling company of the group.

Sole proprietorship (individuālais komersants):

Sole proprietorship, which refers to a natural person registered as a merchant with the Commercial Register, is a prevalent form of economic activity in Latvia.

A natural person engaged in economic activities must register as a sole proprietorship, if:

- The annual turnover from their economic activities exceeds EUR 284 600,
- The economic activities align with those of a commercial agent or a broker, or
- The yearly turnover from economic activities exceeds EUR 28'500 and he or she simultaneously employs more than five employees.

Self-employment is also a common type of economic activity in Latvia, distinct from sole proprietorship. Self-employed persons must register solely with the State Revenue Service (VID, Valsts ieņēmumu dienests) until they fulfill criteria for transitioning to sole proprietorship.

Both sole proprietorship and self-employed persons are personally liable with all their assets. Consequently, this legal form of economic activity is less favored among startups due to the exposure of personal assets. Yet, it is often used by individual entrepreneurs who do not employ any employees.

CORPORATE STRUCTURES, CONT'D

Partnership

Partnerships in Latvia come in two main forms: general partnership (pilnsabiedrība) and limited partnership (komandītsabiedrība).

- **General partnership (pilnsabiedrība)** is a partnership, the purpose of which is the performance of commercial activities through the use of a joint firm name, and in which two or more persons (members) have united, based on a partnership agreement, without limiting their liability against creditors of the general partnership. The foundation of the partnership shall be registered in the Commercial Register.
- **Limited partnership (komandītsabiedrība)** is a partnership, the purpose of which is the performance of commercial activities through the use of a joint firm name, and in which two or more persons (members) have agreed on the basis of a partnership agreement, where the liability of at least one of the members of the partnership (limited partner) in relation to the creditors of the partnership is limited to the amount of its contribution, but the liability of the other member(s) of the partnership (general partners) is not limited. The foundation of the partnership shall be registered in the Commercial Register.

Due to the inherent limitations on liability, where members, excluding the limited partner in a limited partnership, are personally liable with their private assets, partnerships are not frequently utilized for initiating startup ventures. Startups often lean towards corporate structures that offer enhanced protection of personal assets for their members.

ENTERING THE COUNTRY

While there is no general obligation to notify investments in Latvia by foreign investors, in several sectors laws prohibit or restrict foreign direct investment without notification, or may even block or limit foreign investment in accordance with applicable law - depending on the sector, country of origin of the investor and / or other requirements of applicable law. Such sectors are:

- Companies of significance to national security and critical infrastructure, pursuant to the National Security Law ("Nacionālās drošības likums").
- Land and agricultural land acquisition, pursuant to the Law on Land Privatization in Rural Areas ("Par zemes privatizāciju lauku apvidos"), and the Law on Land Reform in Cities of the Republic of Latvia ("Par zemes reformu Latvijas Republikas pilsētās").
- Gambling, pursuant to the Law on Gambling and Lotteries ("Azartspēļu un izložu likums").
- Critical financial services, where the provider of these services has been given such a status by the National Bank of Latvia, pursuant to the National Security Law.
- Various sanctions regimes applicable at the time of the planned entering into Latvia must also be considered.

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INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign which is able to distinguish the goods and services from other companies can be registered as a trademark.

Where to apply? Trademarks can be filed either with (i) the Patent Office of the Republic of Latvia, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application for registration of Latvian trademark can be submitted to Patent Office in paper form or via the online platform on Patent Office's website https://www.lrpv.gov.lv/en. Latvian Patent Office reviews the application and examines the trademark within 6 months from receiving the application. If there are no deficiencies in the application and absolute grounds for refusal of registration are not identified the trademark is registered and published in official gazette of the Patent Office. From that moment three months long opposition period begins. Within this time period third parties can oppose the trademark.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for a ten-years-period. Registration period can be renewed for additional ten years period unlimited number of times.

Costs? Application costs for Latvian trademarks for one class are EUR 90 (additional EUR 30 are charged per additional classes). Additional fees apply, for example, fees for registration and publication of the trademark, for amendments of application, provision of registration certificates, renewal fees, etc. (full list of fees are available on Latvian Patent Office website). In addition, fees of the legal representatives apply.

Patents

What is protectable? An invention can be protected with a patent in any field of technology if the invention is new, it has an inventive step and it is susceptible of industrial application. Latvian law does not provide registration of utility models.

Where to apply? Patent protection will be granted only per country, meaning that applicant must register the patent in each country where protection is sought. Patent applications can be filed with either the Patent Office of the Republic of Latvia, European Patent Office (EPO) or WIPO (in accordance with the procedure of Patent Cooperation Treaty). The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection is in any case a maximum of 20 years from application and must be maintained by annual fees.

Costs? Application costs for Latvian patents for up to ten claims are EUR 120 (additional EUR 20 are charged per addition claim). Additional fees apply, e.g., fees for the grant of patent and patent publication, fee for each invention description and claims pages in excess of 10, patent maintenance fees, etc. (full list of fees are available on Latvian Patent Office website). In addition, fees of the legal and technical representative apply.

Employee invention and inventor bonus? According to the Latvian Patent Law ("Patentu likums"), the employer has the right to a patent if the invention in relation to which the patent application has been filed has been created by the employee whose work duties include activity of an inventor or research, designing and construction or preparation of technological development (the employer must exercise the right to the invention). If the duties of the employee do not comprise the above but are related to the field of activity of the employer, then the right to the patent shall belong to the inventor (employee). The employer in this case has the right to use the invention as under a non-exclusive licence without the right to grant the licence to other persons. Additional numeration (inventor bonus) for the creation and use of the inventions are determined in the employment contract of collective agreement.

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? The appearance of the whole or a part of a product (any industrial or handicraft item) resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its decoration (ornamentation) may be protected as a design. If the design has never been disclosed (published), there is no time limit for filing an application. The disclosure of a design to the public shall not do any harm to the novelty and individual character of the design if the disclosure has taken place within a time period of 12 months preceding the filing date for the registration or the date of priority. After this period, exclusive rights to the design will be lost.

Where to apply? National designs may be registered with the Latvian Patent Office. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. Applicants can also file for designs with the WIPO worldwide within Hague System for registering international designs (Latvia is party to Geneva Act).

Duration of protection? The term of protection is five years and can be renewed five times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? Application costs for designs are EUR 40 plus an additional fee of EUR 30 per each additional design if multiple design application is filed. Additional fees apply, e.g., fees for the registration and publication of a design, amendments to application, renewal fees, etc. (full list of fees are available on Latvian Patent Office website). In addition, fees of the legal representative apply.

Copyright

What is protectable? Expressions of the intellectual creation of an author are protectable under the Latvian Copyright Law ("Autortiesību likums"), e.g., literary works, musical works, audio-visual works, drawings, design works and other works of authors. Copyright protection is granted immediately with the creation of a work. No registration and no label is required.

Duration of protection? Copyright protection ends 70 years after the author has passed away. Where the work is created by co-authors, the protection ends 70 years after the death of the last surviving co-author. In relation to audio-visual works, the protection ends 70 years after the death of the last of the following persons: director, author of the script, author of the dialogue, author of a musical work created for an audio-visual work.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work (economic rights of an author) and non- assignable moral rights of an author (e.g., right to authorship, decision whether and when the work will be disclosed, etc.). The authors may assign the economic rights to third parties or grant licenses to third parties for the use the works. In relation to works created in the course of employment, the copyrights to work belong to the author except if such rights are transferred to employer in accordance with a contract (employment agreement). However, the employer acquires the right to use the work for the purpose for which it was created and to an extent appropriate to that purpose, from the moment of creation of the work (unless otherwise provided for in the employment agreement). Exception is made in relation to computer programs which have been created by an employee while performing a work assignment – in such case, all economic rights to the computer program so created belong to the employer, unless specified otherwise by contract.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

What is protectable? Trade secrets as such are not classified as an intellectual property rights, however, in practice they may have the same value as conventional intellectual property rights such as patent rights. Trade secret is undisclosed information of an economic nature, technological knowledge, and scientific or any other information which conforms to the requirements of the Latvian Trade Secret Protection Law ("Komercnoslēpuma aizsardzības likums"): 1) it is secret in the sense that it is not generally known among or available to persons who normally use such kind of information; 2) it has actual or potential commercial value because it is secret; 3) the trade secret holder, under the circumstances, has taken appropriate and reasonable steps to maintain secrecy of the trade secret.

Duration of protection? As long as appropriate measures are in place, information has a commercial value and information remains a secret, trade secret protection applies.

DATA PROTECTION/PRIVACY

Since 25th May 2018, the General Data Protection Regulation EU/2016/679 applies in Latvia. Latvian legislator has adopted national Personal Data Processing Law ("Personas datu apstrādes likums") which supplements the GDPR and, among others, prescribes rights and obligations of national data protection supervisory authority and includes national derogations of the GDPR. Most notably, the national law provides:

- The age for child's consent in relation to information society services has been lowered from 16 years to 13 years.
- Restriction for data subjects to receive the information specified in Art. 15 of the GDPR if it is prohibited to disclose such information in accordance with the laws and regulations regarding national security, national protection, public safety and criminal law, as well as for the purpose of ensuring public financial interests in the areas of tax protection, prevention of money laundering and terrorism financing or of ensuring of supervision of financial market participants and functioning of guarantee systems thereof, application of regulation and macroeconomic analysis. Furthermore, the national law allows to restrict rights of data subjects in other situations in accordance with Art. 23 of the GDPR.
- Exemptions for application of data subjects' rights in relation to personal data processing in official publications, for statistical purposes, for archiving purposes in the public interest, processing for scientific or historical research purposes and for data processing related to freedom of expression and information.
- That person has the right to process personal data for the purposes of academic, artistic or literary expression in accordance with laws and regulations, as well as to process data for journalistic purposes, if this is done with the aim of publishing information for reasons of public interest. If personal data is processed for respective purposes, the obligations of the GDPR are not applicable (except Art. 5 of the GDPR) if certain preconditions stipulated in national law are met.
- Limitation period for civil claims related to personal data protection violations – the claims can be brought not later than 5 years after the day of infliction of the delict but if the delict is sustained - from the day of cessation of the delict.
- Right for data subjects to obtain information about the recipients or categories of recipients of its personal data, to whom the data has been disclosed in the last 2 years.
- Exemptions regarding the use of in-vehicle dashcams and CCTV cameras (video surveillance). Mainly, it provides that the requirements of the GDPR does not apply to dashcams and CCTV if personal data processing is carried out in for personal or household purposes. Where the surveillance is carried out on a large scale or in cases where technical aids are used for structuring of information the household exemption would not apply.

DATA PROTECTION/PRIVACY, CONT'D

The cookie usage and sending of commercial communication messages (electronic marketing messages) are regulated by Law on Information Society Services ("Informācijas sabiedrības pakalpojumu likums") which, among others, have implemented EU ePrivacy Directive's obligations prior to the GDPR becoming applicable. National cookie consent requirements follow ePrivacy Directive's wording and the recent case law of Court of Justice of European Union – cookies can only be placed on end-user's device after the user has been provided with clear and comprehensive information, in accordance with the GDPR, about the purposes of the processing and has consented to the use of cookies. Cookie consent exemption only applies in relation to so called strictly necessary cookies – consent is not required for use of cookies which are necessary for ensuring circulation of the information in the electronic communications network or for the provision of service requested by the user.

Electronic commercial communication messages are prohibited to be sent to natural person unless prior consent has been acquired from particular individual. In relation to e-mail commercial communication activities, exemption of similar products and services applies – if service provider within a framework of his commercial transactions, has acquired e- mail addresses from service recipients, he may use these e-mail addresses for commercial communications provided that: a) they are sent regarding similar products or services of the service provider; b) a service recipient has not objected initially regarding further use of the electronic mail address; c) service recipient in each communication is informed about rights to refuse from further use of e-mail address for this purpose (e.g., unsubscribe link is included in each marketing e-mail). Prohibitions only apply for sending commercial communications to natural persons. However, the legal persons must also be given an option to freely to refuse (opt-out) from further use of their e-mail address for this purpose.

The competent data protection supervisory authority in Latvia is Latvian Data State Inspectorate (DVI, Datu valsts inspekcija). DVI performs the tasks assigned to supervisory authorities under Article 57 GDPR and exercises the investigative and corrective powers conferred by Article 58 GDPR. Administrative fines constitute one of the corrective measures available to the DVI. Such fines may be imposed, inter alia, in cases of non-cooperation (e.g., failure to provide requested information or to respond to formal requests issued by the DVI), as well as where the DVI determines that a data controller has infringed applicable data protection legislation.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Latvia. AI is regulated by the EU Artificial Intelligence Act. In the near future national market authorities will supervise compliance with the AI Act. General restrictions, particularly under data protection and copyright law apply:

- The principles of data protection law – in particular Art 22 GDPR for automated individual decision-making – must be observed in relation to the development, testing and operation of AI. Thus, the use of AI must not lead to any legal or similarly serious effects to the data subject, without any human intervention. An automated decision-making process is for example assumed, if a company uses results of an AI-application without any further quality-check and assessment. Furthermore, among other GDPR requirements, there must be a legal basis for the processing of personal data within AI system in accordance with the GDPR requirements.
- National copyright restrictions are particularly relevant for generative AI. This applies to both (i) the input data (especially web scraping) and (ii) the output of the specific AI application: The retrieval of data from the internet into set of training data may be considered as Text & Data mining which would be subject to Latvian Copyright Law (Autortiesību likums). Section 21.1 of Copyright law allows Text & Data mining insofar it does not unjustifiably limit the lawful interest of the rights holder, and unless prohibited by the rights owners in machine readable form, including through metadata. The output of AI may infringe the rights of the author of the original if the output is identical to or resembles an original source.

The list of 12 market supervisory authorities has been approved by the Cabinet of Ministers. However, further regulations and guidance regarding their obligations and rights are yet to follow. Furthermore, a new Artificial Intelligence Centre Law ("Mākslīgā intelekta centra likums") has being adopted. The new law provides for establishment of the Artificial Intelligence Centre, which combines the intellectual and financial resources of the public and private sectors, as well as universities, to promote mutual partnerships and the introduction and development of innovations. The Centre is tasked with ensuring implementation of AI initiatives, fostering AI literacy and fulfilling other functions in development of an AI and human rights friendly ecosystem in Latvia.

LATVIA

EMPLOYEES/CONTRACTORS

General: Employer and employee must conclude an employment agreement, which stipulates their rights and obligations set forth by Labour Act ("Darba likums"). The following essential terms must be agreed in every employment contract: (i) date of commencement of employment; (ii) validity of employment contract; (iii) place of work; (iv)position, job duties.; (v) remuneration; (vi) the agreed daily or weekly working time. Some of other essentials may be included in the internal documents or by the reference to the Labour Act. The employer registered in Latvia shall provide the payment of income tax and the social security contributions calculated from the gross remuneration.

Law on Aid for the Activities of Start-up Companies ("Jaunuzņēmumu darbības atbalsta likums") provides that if a start-up meets the requirements provided in the law it may apply for fixed social security contributions payments for an employee in the amount of two minimum monthly salaries laid down by the Cabinet of Ministers (beginning from 1 January 2026, the minimum monthly salary for normal working hours has been increased to **EUR 780** gross) or apply for an aid program for attracting highly qualified employees. The maximum period for such aid programmes is 12 months.

Engagement of contractors: In case of engagement of contractors the company has to be very careful, because if the legal relationship is recognized as an employment relationship due to its nature, there is a penalty and additional payroll tax payment risks, moreover those contractors could be recognised as employees of the company. Pursuant to the law it shall be considered that a contractor receives an income for which salary personal income tax shall be paid (and this also means that the employment relationship between parties are concluded), if at least one of the following pre-conditions is established:

- the contractor has economic dependence upon the entity to whom the contractor provides services;
- not taking on financial risk in case of fulfilment of non-profitable work or in the case of a lost debtor debt; the integration of the contractor into an undertaking to which the contractor provides services. The integration into an undertaking is deemed to be the existence of a work area or a recreational area, a duty to observe and comply with the internal regulations of the undertaking and other similar features;
- the existence of actual vacation and leave for the contractor, as well as existence of applicable internal procedures for taking a vacation or leave considering the work schedule of other persons employed in the undertaking;
- the work of the contractor is carried out under the management or control of another person, and the contractor does not have a possibility to engage his or her personnel or sub-contractors in the work;
- the contractor is not the owner of the fixed assets, materials or other assets, which are used in its business activities.

Therefore, the companies must be very careful when choosing the type of legal relationship with a person (employment or contractual).

No work for hire regime: Although it is possible to use other contracting forms besides employment, i.e. independent contractors, if such regime is chosen, from IP perspective it is relevant to note that there is no work for hire regime in Latvia. Therefore, each agreement should contain a clause covering IP issues. Such clause should be as specific as possible, as otherwise courts will usually interpret the grant of rights in a quite restrictive manner (the same applies to the employment contracts where it is essential to indicate to whom the economic rights of the intellectual property are transferred, if any, and how this will be compensated, usually the remuneration provided includes also compensation for transfer of IP rights).

Termination: Employees are very well protected. Pursuant to the Labour Act, the employer may terminate employment relationship only on the grounds provided in the law (for example, material violation of the employment contract, intoxication of alcohol, narcotic or toxic substances when performing work, reduction of number of employees etc.) or by submission of the respective claim to the court if the employer has an important reason (mainly, conditions which do not allow the continuation of employment relationship on the basis of considerations of morals and fairness).

The Labour Act also provided quite strict regulation on the procedure how the termination of employment relationship must be performed, in some cases the employer has to provide a severance payment for termination of employment relationship. The employees may challenge the termination of their employment relationship in the court.

In addition, certain groups of employees (e.g. trade union members, pregnant employees, employees on parental leave or with recognized disability status) enjoy special termination protection.

CONSUMER PROTECTION

If the trader is aware of the consumer protection rules on the EU level, then there is little to worry about when it comes to Latvia. Same as in the rest of the EU, the main things to avoid are – **unfair contractual terms** and **unfair contractual practices**. Both of these are prohibited and their regulation stems from harmonized EU law on consumer protection (Directive 93/13/EEC and Directive 2005/29/EC respectively). The unfair contractual terms are listed in Article 6 of the Consumer Rights Protection Law ("Patērētāju tiesību aizsardzības likums"), while the unfair commercial practices are described in the Unfair Commercial Practices Prohibition Law ("Negodīgas komercprakses aizlieguma likums").

If an unfair commercial practice is committed only in Latvia, the market surveillance authority (Consumer Rights Protection Centre) is entitled to impose a fine up to EUR 300 000, while in case of practices that affect consumers in at least 2 member states the maximum fine is 4 % of trader's turnover.

Latvia has implemented the Representative Actions Directive (Directive (EU) 2020/1828), which allows select entities to bring claims on behalf of consumers against traders for infringement of consumer rights.

In contrast to some other EU member states, Latvia has chosen to extend the product liability regime arising from Directive 85/374/EEC not only to goods, but also to certain **services**. This means that pursuant to the law On Liability for Defects of Goods and Services ("Par atbildību par preces un pakalpojuma trūkumiem") the producer may be liable not only for its goods that have caused injury or loss of property, but also for services that consist of manufacturing of a new tangible property, improvement or alteration of an existing tangible property or its properties, as well as for services that have a direct or indirect effect upon human life or health. This is especially important for traders who develop apps or provide digital services that improve/alter functions of smart devices, such as motor vehicles and household devices. Latvia is expected to continue the inclusion of services into the product liability regime also after end of 2026 when Directive 85/374/EEC will be repealed by the new Product Liability Directive (Directive (EU) 2024/2853).

In a similar fashion, Latvia applies to services a framework similar to that of the General Product Safety Regulation (Regulation (ES) 2023/988), which is going to be regulated by the Law on the Safety of Services (not yet adopted at the time of writing).

TERMS OF SERVICE

Latvia has supplemented the EU list of unfair contractual terms with the principle of **legal equality**. I.e., a contractual term is unfair if it is contrary to the principle of legal equality, namely, if it:

- reduces the liability of the parties prescribed by law;
- restricts the right of the consumer to conclude contracts with third parties;
- gives privileges to the manufacturer, trader or service provider, and restrictions to the consumer;
- puts the consumer in a disadvantageous position and is contrary to the requirements of good faith.

Same as with the other unfair contractual terms, the consequence of including it is invalidity of such term as well as risk of incurring fine. For example, the Latvian Copyright Law grants the author an inalienable right to demand that the use of a work be discontinued (albeit with paying damages). This means that if the service terms prescribe that the consumer grants an irrevocable license to the service provider for the use of uploaded copyrighted content, such clause would be considered unfair and accordingly null and void.

When it comes to digital products, the trader should carefully determine whether its product qualifies as **digital service**, **digital content** or part of **goods with digital elements** under the Digital Services Directive (2019/770) and the Sale of Goods Directive (2019/771). Each of these has a distinct legal framework applicable, and improper qualification may lead to invalidity of economically important elements of the terms of service.

LATVIA

TAX/FUNDING

Latvian start-ups are generally established as corporations and are subject to corporate income tax (CIT).

Corporate Income Tax: According to the Latvian CIT Law, profits are subject to CIT only upon distribution as dividends, conditionally distributed, or paid as liquidation proceeds. Deemed distributions include non-business expenses, doubtful debts, excessive interest under thin capitalization rules, certain loans to related parties, and non-arm's length related-party transactions. Two CIT rates apply: 20% rate, calculated using a coefficient of 0.8 (effective burden 25%), 15% rate, which applies if the company's shareholders are only natural persons and chose to apply this method calculated using a coefficient of 0.85 (effective burden approximately 17.65%). **Interest** and **royalty payments** to non-resident companies are not subject to withholding tax (WHT) under Latvian domestic tax law, regardless of whether a tax treaty applies. **Management fees** paid to non-resident companies are subject to a WHT of 20%. However, this rate can be reduced or eliminated if an applicable double taxation treaty is in place. All payments made to a non-resident (shareholder or intermediary) located, set up, or established in a statutory low-tax or tax-free jurisdiction, are subject to WHT at rate of 20%.

Thin capitalization rule: In Latvia, thin capitalization rules apply with a 4:1 debt-to-equity ratio (equity determined at the start of the financial year). If the ratio is exceeded, interest on the excess debt is subject to 20% CIT. Additionally, if annual interest exceeds EUR 3 million, deductibility is limited to 30% of EBITDA, unless paid to a qualifying exempt lender. The rules do not apply if the lender is an EU/EEA or treaty country resident, provides credit or financial leasing services, and is supervised as a financial institution (advisable to review whether the lender qualified according to the Latvian CIT law).

Withholding Tax on Dividends: There is no withholding tax (WHT) on dividends in Latvia because dividends are subject to CIT. Dividends are exempt from Personal Income Tax (PIT) for Latvian residents, except if CIT 15% rate is applied, an additional 6% PIT rate is applied to net dividends. An exception also applies to dividends received from non-resident located, set up, or established in a low-tax or tax-free jurisdiction. For non-residents, PIT will be applicable in their country of residence.

Capital Gains Tax: Latvia does not impose a separate Capital Gains Tax on legal entities. Capital gains from the sale of shares are exempt from Latvian CIT if the seller is a Latvian CIT taxpayer and has held the shares for at least 36 months. The exemption does not apply to shares in Latvian real estate–rich companies or to shares in a non-resident company located, incorporated, or established in a low-tax or tax-free jurisdiction.

VAT: The standard Latvian VAT rate is 21% on goods and services. Reduced rates of 12%, 5%, and 0% apply to specific supplies. Businesses may deduct input VAT related to taxable activities. VAT registration with the State Revenue Service is mandatory if: intra-EU acquisitions exceed EUR 10,000 (excluding VAT), or annual taxable turnover exceeds EUR 50,000 (EUR 55,000 for SMEs).

R&D Incentive relevant for start-ups: Not available in Latvia.

Salary taxation: Employment income is subject to 25.5% PIT. If the employee is socially insured abroad, a 33% PIT rate applies to monthly income above EUR 8,775. Social security contributions total rate is 34.09% of gross salary (10.50% employee, 23.59% employer). Income above EUR 105,300 per year is subject to 25% solidarity tax, with any excess contributions refunded.

Transfer pricing: Related-party transactions must comply with the arm's length principle. If annual transaction value exceeds EUR 250,000, the company must prepare transfer pricing documentation and submit it within one month upon request by the Latvian tax authorities. A taxpayer must submit an overview to the Latvian tax authority of related-party transactions exceeding EUR 250,000 within 12 months after the end of the taxation year.

TAX/FUNDING, CONT'D

Funding/Incentive Programs

Incentives are available for companies operating in **Special Economic Zones** (SEZs). There are five SEZs in Latvia: 1) Free Port of Riga; 2) Free Port of Ventspils; 3) Liepaja Special Economic Zone; 4) Rezekne Special Economic Zone; and 5) Latgale Special Economic Zone.

The SEZs were established to promote business development within the regions concerned and export activities. SEZs offer tax incentives in the form of: 80% rebate on the applicable CIT, which can make the tax rate as low as 4%, 80% rebate on the applicable Property Tax which can make the tax rate as low as 0.3%. The SEZs are expected to be in place until 2035.

The **Investment and Development Agency of Latvia (LIAA)** supports companies in Latvia in all phases of their business development. It offers various programmes:

SME Program – For Ideas and Development
"The Idea Cup"
"Business Pre-Incubation Support"

For the development of innovation and start-ups
"Large investment loan with a capital discount. Round 4."
"Support for Knowledge-Intensive Start-ups"
"Support for the Development of European Commission Project Proposals"
"Aid for Innovation Vouchers"
"Start-up support"
"Support for innovation through procurement"

TAX/FUNDING, CONT'D

Funding/Incentive Programs, CONT'D

SME Program – Export
"Export aid action plan"
"Participation in trade missions abroad"
"Participation in Nation Stands Abroad"

The **Start-up support** program provides up to 45% co-financing for the remuneration of highly qualified employees based on actual hours worked and reduced social insurance contributions, possible personal income tax exemption, and additional pension contributions. The programme is available to high-growth start-ups operating in innovative sectors, particularly those with venture capital investment or a product ready for early market testing.

The **Support for Knowledge-Intensive Start-ups** program helps commercialize research developed in scientific institutions and strengthen technology transfer. The programme provides 50% co-financing (up to EUR 150,000) for science-intensive startups. It includes co-financing for: employee salaries and social contributions, outsourced services (e.g., engineering, marketing), prototyping materials and components, participation in international events, certain indirect costs (e.g., rent, utilities). Support is granted for 12 months and is available until 30 April 2027 or until funds are exhausted.

There is a strategic program Fast-Track "Green Corridor" Initiative. It is a priority service mechanism, enabling economically significant Latvian companies to receive state and municipal public services on an accelerated basis, at least twice as fast as standard administrative procedures. The initiative is available to exporters, major investors, strategic project developers, and defence-sector companies that meet defined economic thresholds (e.g., minimum EUR 5 million in exports or investment and at least 50 employees). Companies with tax debts, sanctions, or other exclusion criteria are not eligible. Priority status is granted for 36 months.

ALTUM is a state-owned **financial institution** in Latvia that helps businesses and households access financial resources through state support programs. These programs include loans, guarantees, and investments in venture capital funds, focusing on areas critical for economic growth. It offers various loans for enterprises.

In Latvia is a network of **business angels** – Business Angel Network (LatBAN) —experienced investors who provide funding, mentorship, and expertise to startups with exceptional growth potential. Former business owners and seasoned professionals support innovative entrepreneurs in Latvia and abroad, investing their capital, time, and knowledge to help businesses succeed.

Startup House is a center of the **start-up community** in Riga. It dedicated workspace and community hub designed to support the Latvian startup ecosystem. It serves as a base for entrepreneurs, offering co-working spaces, private offices, and event areas tailored to startups, investors, and ecosystem partners.

Riga TechGirls is a pioneering **IT community** in Latvia focused on empowering women and girls in the field of technology. Community have mentoring and supportive programs for start-ups for fresh founders as well as ones that are already quite experienced and ready to share their knowledge with others.

WHAT ELSE?

Support for start-ups: Latvia has adopted Law on Aid for the Activities of Start-up Companies ("Jaunuzņēmumu darbības atbalsta likums") to promote the formation of technology companies, i.e., startups, in Latvia and promote research development and commercialization of innovative products. Startups which fulfill the criteria of this law (inter alia, it requires that qualified venture capital investor has made capital investment in the company) may apply to specific aid programs – aid program for attracting highly qualified employees, aid program for making fixed employees' mandatory social security contribution, and employees' personal income tax relief.

Strict jurisdiction: Latvian courts and administrative bodies are rather strict when it comes to protection of employees and consumers, and compliance with anti-money laundering (where company is subject to AML regulations) and sanctions regulations. For businesses, the risk of non-compliance in these fields of law is rather high. It is thus recommendable to focus on these topics first, when rolling out a business in Latvia.

Remote work and flexible working hours: Remote working and flexible working time have become extremely popular in employment relationships, and especially in start-ups. But employers need to bear in mind that the protection of confidential information, including trade secrets, and the rules on how to work remotely, including the workplace in case of remote working (for example, assessing whether a restriction on working from abroad is necessary), are becoming extremely important. The employer must provide the necessary work tools also in case of remote work, but may agree that no compensation is paid for expenses related to the remote work.

Membership in Chambers: In Latvia, companies have the opportunity to become members of various business chambers that represent the political and economic interests of entrepreneurs. The largest and most recognized organization is the Latvian Chamber of Commerce and Industry (LCCI), which unites around 6,000 members from micro, small, medium, and large enterprises across different industries and regions.

In addition to LCCI, companies can choose to join international chambers of commerce, such as: American Chamber of Commerce in Latvia (AmCham), British Chamber of Commerce in Latvia (BritCham), German-Baltic Chamber of Commerce (AHK Baltic States) and other regional and industry-specific chambers.

Membership in these chambers provides networking opportunities, advocacy support, and access to business development resources. Companies holding multiple trade registrations may consider memberships in several chambers, depending on their business interests and international connections.



LEBANON

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LEBANON

LEGAL FOUNDATIONS

Lebanon is a unitary state divided geographically into 9 Mohafazats (or provinces). The legal system is a civil law system based on a set of codified rules that are applied and interpreted by judges. The main elements of its legal and judicial systems were acquired during the French mandate (1920-1943) and are still maintained to date.

Lebanese law is divided into two main branches: Private Law and Public Law.

Private Law: governs relationships between individuals and/or private legal entities and is applied by the courts of the judicial order which are of two types:

Civil Courts: competent to settle disputes and repair damages. They are composed of three levels of jurisdiction: (1) the court of first instance, composed of chambers and single judges, (2) the court of appeal and (3) the court of cassation.

Criminal courts: competent to punish criminal offences with the power to repair damages resulting from such criminal offences. They are composed of three levels of jurisdiction: (1) the single judge, the investigation judge, (2) the court of appeal, the court of felonies and (3) the court of cassation (criminal chamber).

Public Law: defines the principles of functioning of the state and public entities and governs the relationships between public entities as well as between public entities and individuals/ private entities. This order is currently based on a first and last resort jurisdiction which is the State Council.

Case law is of persuasive nature and is often invoked by parties in support of their claims.

LEBANON

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Companies under Lebanese law are of two main categories: civil companies and commercial companies.

There are 6 types of companies that are provided:

- Société Anonyme Libanaise (SAL) - (corporation);
- Société à Responsabilité Limitée (SARL) – (Limited Liability Company)
- Société en Nom Collectif (SNC) – (General Partnership)
- Société en Participation (SP) – (Joint venture company)
- Société en Commandite Simple (SCS) – (Limited Parnership)
- Société en Commandite par Actions (SCA) – (Limited Parnership with share capital)

The Société Anonyme Libanaise (SAL), Société à Responsabilité Limitée (SARL) and Société en Commandite par Actions (SCA) are considered commercial companies and are governed by commercial law regardless of the type of business activity that is being carried on. The other types can be considered civil or commercial depending on the nature of the business activity.

The most popular forms are the SAL (corporation) and the SARL (limited liability company). Their key characteristics are as follows:

Société Anonyme Libanaise (SAL) Corporation	**Société à Responsabilité Limitée (SARL)** Limited Liability Company
Main Features: Appropriate form for a company whose shares are publicly traded or for a fast-scaling startup. It is also suitable for the provision of financial services. The SAL's operation is largely regulated by law.	**Main Features:** Appropriate form for small and medium-sized companies. The company may not provide financial services. The SARL's operation is largely regulated by law.
Number and quality of shareholders/partners: 3 and above. Shareholders can be either natural or legal persons.	**Number and quality of shareholders/partners:** 1 to 20. The maximum number can increase to 30 after the introduction of the heirs of one or more deceased partner(s). Partners can be either natural or legal persons.
Minimum share capital: 30 Million LBP (around 335 USD). Certain business activities have a higher capital requirement (for example: banking, insurance and other financial services). Contribution in-cash or in-kind.	**Minimum share capital:** 5 Million LBP (around 56 USD). Contribution in-cash or in-kind.
Shareholder's liability: Limited to their contribution to the share capital.	**Partner's liability:** Limited to their contribution to the share capital.
Bonds: The SAL may issue bonds to finance its activities.	**Bonds:** The SARL may not issue bonds to finance its activities.
Transferability of the parts: The shares are freely negotiable and transferable to third parties without any right of first refusal. However, such right may be provided in the company's by-laws to the extent that it doesn't block the transfer entirely.	**Transferability of the parts:** The parts are subject to the approval of the company and the partners representing at least 75% of the capital.
Management: The SAL is managed by a board of directors, comprising 3 to 12 members. One third of the members must be Lebanese. The Chairman is appointed by the Board of Directors from among its members. The general manager (CEO) is also appointed to represent the company and ensure its day-to-day management.	**Management:** The SARL can be managed by one or more managers, who can only be natural persons.

CORPORATE STRUCTURES, CONT'D

Additionally, Lebanese law provides for the Offshore company and the Holding company, which must be incorporated as SAL companies:

Offshore Company: The business objectives of an offshore company are limited. They are involved in trade and other restricted activities strictly outside the Lebanese territories.

Offshore companies are exempt from CIT and from the WHT on dividends, and are instead subject to a lump-sum annual tax of LBP 50 million starting fiscal year 2022 as per the 2022 Budget Law instead of LBP 1 million. Contracts related to offshore activities outside Lebanon are exempt from Lebanese stamp duty.

Holding Company: The business objectives of a holding company are restricted to the following:

- To own shares or parts in Lebanese or foreign joint stock corporations and limited liability companies, whether they already exist or are in the process of being formed;
- To manage companies in which the holding company owns shares or parts;
- To lend to companies of which the holding company owns at least 20%, or to guarantee such companies towards third parties. For that purpose, a holding company may borrow from banks or issue debenture bonds, provided that the total value of the bonds issued at any given time does not exceed five times the amount of the holding company's capital and its reserves, as indicated in the last audited balance sheet;
- To own patents, licences, trademarks and other reserved rights, and to lease them to companies active in Lebanon or abroad;
- To own moveable or immovable properties, provided that their use is confined to the requirements of the holding company's activities and with consideration to existing limits on the foreign ownership of real estate.

Lebanese holding companies are exempt from CIT and from WHT on dividends. However, they are subject to a tax on their paid-up capital and reserves. In any given tax year, total tax payments on paid-up capital and reserves are capped at LBP 50 million starting fiscal year 2022 as per the 2022 Budget Law instead of LBP 5 million.

Process and Time for Establishment of SAL Company

Bylaws of the Company: The founders must sign the bylaws of the Company, which must be in the form of a notarized deed. The bylaws must contain certain specified information (e.g. company form, duration, company name, registered office which must be in Lebanon, company purpose, amount of the share capital and its composition…).

Opening of a bank account: The founders must appoint an approved bank in Lebanon to deposit the amount of the initial share capital. Upon receipt of the funds, the bank will issue an attestation of deposit. The share capital must be fully subscribed and may be partially paid up with a minimum of 25% of the subscribed amount. Where in-kind contributions are provided, a sworn expert must be appointed by the court to assess the value of the contribution.

Registration at the Commercial Registry: The bylaws of the company, along with the other documents related to the company must be registered at the commercial registry of the place where the registered office is located. Such documents will include, IDs and criminal records of the shareholders, the lease agreement or occupancy deed, the circular, the application for registration as well as the declarations regarding the Ultimate Beneficiary Owners (Holders of 20% or above or having significant control).

Timeframe: The estimated time to complete the registration is between 10 and 15 days after receipt of the documents appropriately authenticated by the competent authorities and legalised by the Lebanese Embassy or Consulate.

LEBANON

ENTERING THE COUNTRY

The Government has historically adopted a generally non-interventionist position toward private investment so as to encourage foreign investment.

With respect to the freedom of exchange, foreign investors may freely import and export capital in any form they wish. However, since the onset of the economic crisis in late 2019, banks have imposed unofficial capital controls restricting access and transfer of foreign currencies outside Lebanon.

Restriction on Foreign Ownership of Real Estate: The following restrictions apply to foreign ownership of real estate:

- Up to 3,000 square meters does not require Council of Ministers approval.
- Exploitation and normal lease right extending for a period of more than ten years cannot be attained without obtaining approval.
- Real estate owned by foreigners, for which approval has been obtained, cannot exceed, over all of the Lebanese territory, 3% of the total area of Lebanon. In each province, the total area owned should not exceed 3% of its area.

With respect to Beirut, the total area owned should not exceed 10% of its area.

- The approval is nullified if not acted upon during a period of one year.
- When approval is granted, the building on the real estate should be constructed within a period of five years (renewable once by the Council of Ministers).

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Copyrights

Object of protection: Copyright (called "author's rights" in Lebanon) protects literary works, in particular graphic, sound, or audiovisual and sculptural creations, musical creations but also software, creations of applied art, fashion creations, etc.

Requirements for protection: The protection conferred by copyright is acquired without formality. In order to be protected, the work must be a human creation and, above all, be original. The work is protected by the very fact of its creation, regardless of its form of expression, type, merit, or purpose. The registration of the copyrighted work before the IP Office at the Ministry of Economy and Trade will create a presumption of ownership in favour of the person making the registration.

Rights conferred by the protection: Copyright offers to its holder (i) moral rights (such as a right of attribution, which are perpetual, inalienable, and imprescriptible) and (ii) economic rights, which allow the author to prohibit or authorize the use of his work and get paid for it.

Duration of protection: Moral rights are perpetual. Economic rights last for the lifetime of the author and last, for his/her beneficiaries, for 50 years after the author's death.

Employee creations: In the absence of an agreement to the contrary, the works created by the employee shall be owned by the employer.

INTELLECTUAL PROPERTY, CONT'D

Trademarks

Object of protection: A trademark is a distinctive sign that can take various forms such as a word, a slogan, numbers, a logo, a drawing, a combination of images that is used to distinguish goods and/or services.

Requirements for protection: To be eligible for protection under trademark law, the chosen sign must be distinctive, available, not deceptive and in conformity with public policy.

Duration of protection: The protection conferred by trademark law offers its author a monopoly of use for a period of 10 years, renewable indefinitely.

Cost of protection: The cost of filing a trademark for protection in Lebanon depends on the number of classes selected: USD 450 for one class and USD150 for each additional class.

Procedure: Trademark applications are only made online on the portal.economy.gov.lb platform. The IP office at the Ministry of Economy and Trade will examine the application and, if approved, will inform the applicant to continue the filing process by submitting the required documentation and paying the related fees. Upon completing the filing process, the IP office will proceed to the publication of the trademark application in the official gazette. A third party may submit an objection based on prior use within 5 years from the publication date.

Adherence to International Conventions: Lebanon is a party member to the Paris Convention on Industrial Rights. Although it is not yet a member of the Madrid Convention, it has a pending item on the agenda of the government.

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that (i) the invention is novel, (ii) creative and (iii) can be applied in industry.

Where to apply? Applicant must register the patent in each country where protection is sought. Patent applications are filed with the IP Office at the Ministry of Economy and Trade.

Duration of protection: The term of protection is 20 years from the date of application and must be maintained by annual fees rising from LBP 4,600,000 (USD51.39) in the first year to LBP48,300,000 (USD539.66) in the twentieth year.

Costs: Application costs for Lebanese patents amount up to LBP 2,300,000. In addition, fees of the legal and technical representative apply. Total costs for a patent application range from USD 1,500 to USD 5,000. However, there are various funding and incubation programs that can be applied for, especially in the Health, ICT and Agrifood sectors.

Employee invention: In the absence of an agreement between the employer and the employee, the employer shall be the owner of the invention if the employee's job includes inventive functions, researches, studies or testing on behalf of the employer. All other inventions shall be owned by the employee.

International Conventions: Lebanon is not a party to the PCT treaty.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs

Object of protection: Designs (2D) and models (3D) protect the appearance of an industrial or artisanal product characterized by its lines, contours, colors, shape, texture or materials.

Requirements for protection: In order to be protected by design law, the design must be new and have individual character, the applicant must be legitimate and the protected elements must be visible during the normal use of the product by the consumer.

Duration of protection: The protection term conferred to public or confidential filing after the expiry of the first five-year period shall be 25 years counted from the date of first filing prescribed in the present Law. It is renewable once for a similar period of 25 years.

Cost of protection: The cost of filing a design starts at around USD 300 and increases depending on the number of registered designs.

Procedure: The application for registration of a design must be filed with the IP Office at the Ministry of Economy and Trade. The IP Office examines the design/model filing on the form and on the substance. If there is no objection from the IP Office, the model is registered.

It is possible to delay the publication of industrial designs up to 5 years from the date of registration. During this period, the applicant may request the publication of the registered designs in whole or in part.

Trade Secrets

What is protected? Trade secrets include secret industrial and commercial information that has commercial value derived from its secrecy such as methods of manufacture and experimental and testing results. At a minimum, the information must have commercial value, the information must be secret, and the information must have been subject to reasonable measures by the business to maintain secrecy. In Lebanon, disclosure of trade secrets by any person who acquired them by virtue of his position, post, profession or art is sanctioned by 3 months to 3 years of imprisonment in addition to fines (Article 47 of the Patent Law of 2000). Furthermore, the court may order compensation to the aggrieved party that would be equivalent to the damages incurred and lost profits.

Duration of protection: Trade secrets protection can last as long as the information actually remains a secret.

Protection of trade secrets: Some methods to protect trade secrets include having anyone you disclose your business information to sign a non-disclosure agreement, including confidentiality clauses in employment agreements, encrypting any valuable business information, using passwords to protect valuable business information, and storing valuable business information in a secure location.

LEBANON

DATA PROTECTION/PRIVACY

In Lebanon, data protection is regulated by the law 81-2018 related to electronic transactions and personal data.

In principle, personal data may be collected and processed subject to a declaration to the Ministry of Economy and Trade. In certain circumstances (like the collection of data for members, employees or customers…), the declaration is not required.

Sensitive data may not be collected or processed without the authorisation of the Ministry of Economy and Trade. This authorisation is not required in certain cases:

- If the collection and processing is required to claim or defend a right in court.
- If the data subject has already shared publicly or expressed consented the collection and/or the processing.
- If the processing is necessary to provide a diagnosis or a medical treatment by a member of health organisation.

The data controller must obtain the consent of the data subject before collecting his/her personal data. The consent form shall include:

- Identity of the Data Processor
- Purpose of Processing
- Optional or mandatory character of the responses to the questions
- Consequences for not answering the questions
- Recipients of the information
- Data Retaining Period
- Right to access, correct and update such information and the process for such operation.

If the data were not collected directly from the data subject, the latter must be informed of the data collected, the purpose and the right for objection.

The data protection law provides data subjects the following individual rights:

- The right to access information
- The right to request a copy of the personal data
- The right to request the erasure of personal data
- The right to restrict or object to the processing if the data control or processing is in violation of one or more of the data protection principles.

The data protection law considers as criminal offence (1) the processing of personal data without a prior declaration or authorization, (2) the collection or processing of personal data in violation of the rules and (3) the disclosure of personal data being processed to third parties not allowed to receive such information. These offences are sanctioned by a fine between LBP15,000,000 and LBP30,000,000 and imprisonment between 3 months and 3 years, or one of the said sanctions.

LEBANON

ARTIFICIAL INTELLIGENCE

There is no specific law for AI in Lebanon yet. A draft law is currently being discussed.

Until the issuance of a specific law for AI, the general provisions on copyright and data protection laws will apply.

EMPLOYEES/CONTRACTORS

General: In Lebanon, employment contracts are regulated by the Lebanese labour law.

An employment contract is deemed to have been entered into when the following 3 conditions are met:

1. The performance of a service;
2. In return for a remuneration; and
3. A subordinate relationship between the employer and the employee.

A company can execute a contractor agreement with independent contractors to perform services. To retain this qualification, courts will analyse the facts, and will not be bound by the title given to the agreement by the parties.

A written employment contract is not required, although it is highly recommended to prove the parties' rights and obligations.

Types of Employment Contracts: an employment contract can be one of two types:

1. An open-ended employment contract, that may be terminated anytime subject to at least one month prior notice, depending on the employee's length of service;
2. A fixed-term contract, that may not be terminated before the expiration of the term, unless in case of serious breach. A fixed-term contract that was renewed with an overall duration exceeding 2 years shall be considered an open-ended contract.

Registration with social security: Every employer must register employees with the National Social Security Fund (NSSF) and pay social security contributions based on the employee's remuneration.

Termination: In case of an open-ended employment, the employer can initiate the termination of the employment contract through a dismissal. In all cases, the employment may be terminated by mutual agreement.

The dismissal must be based upon real and serious grounds (whether economic or personal). Unjustified dismissal would amount to an abusive termination and would make the employer liable to pay a compensation between 4 to 12 months.

Work Made in the course of employment

Copyrights: In the absence of an express agreement, copyrighted works, including software, that are created by an employee in the course of employment are reputed to be own by the employer.

EMPLOYEES/CONTRACTORS, CONT'D

Work Made in the course of employment, CONT'D

Patents: In the absence of an express agreement, the employer will be entitled to the invention if the employee's duties include inventive functions, researches, studies or testing on behalf of the employer. All other inventions shall be owned by the employee.

Yet, if the invention took place while the employee was executing his job, or such invention is within the activities of the employer due to information provided by the employer or utilizing of means or technologies related to the employer, then the employer, within one year from publishing the patent in Lebanon, shall be entitled to inform the employee by a written notice his desire to own the rights resulting from the invention or to partially or totally utilize such for a fair compensation either amicably agreed upon or through a Court of Law.

CONSUMER PROTECTION

The consumer protection provisions are laid down in the Consumer Protection Law 659/2005 amended in 2014.

Article 3 of the said law sets out the rights of the consumer which include fundamental and universal rights such as the right to information, the right to health and safety, the right to non-discrimination, the right to assert their rights and access to justice and the right to representation.

Article 18 of the law states that ambiguity should always be interpreted to benefit the consumer.

Abusive Clauses
Article 26 states that all abusive clauses are void and cannot be enforced. The provision sets out a non-exhaustive list of abusive clauses. For example, a clause that exempts the merchant from its obligations or a clause where the consumer waives rights granted by the consumer protection law is considered as an abusive clause.

It is worth to mention that the consumer protection law will not apply to liberal professions, banking and insurance businesses whenever it contradicts banking laws, insurance companies' laws or liberal professions laws.

Dispute settlement
The Consumer Protection law offers two ways (outside of the judiciary) to resolve disputes. The first one is through a mediation process and the second one is through the dispute settlement Committee.

The mediation process: If the dispute is worth less than LBP 3 million, then the dispute should be settled through mediation by a mediator appointed by the Ministry of Economy and Trade. If the parties do not reach an agreement, then the unsettled dispute must be addressed to the Dispute Settlement Committee.

The Dispute Settlement Committee: The Committee is concerned with disputes arising between the consumer and the merchant, including the disputes that were settled through mediation and disputes which value is higher than LBP 3 million.

LEBANON

TERMS OF SERVICE

What should be included in the offer: Article 33 of the law on Electronic Transactions and Personal Data states that any person who offers goods and services through electronic means should include in their offerings:

- Steps to follow to sign the contract electronically.
- The contract terms and conditions in a form that can be saved and duplicated.
- Technical features that allow the addressee to double check the electronic contract for errors and correct the same before submitting the final approval to conclude the contract.
- To which extent the offeror undertakes to store the digital traces of the negotiation and the contract signed. In case of such undertaking, the offeror shall determine the duration thereof, the method by which they will store the digital traces, and the conditions for accessing the stored documents.
- The contract official language.

Article 35 adds that the offer shall bind the offer as soon as it can be accessed electronically.

The above provisions do not apply to contracts concluded through exchange of emails or separate personal correspondences. Additionally, in contracts concluded between professionals, the application of the above provisions may be excluded.

Acceptance and contract formation: A contract is not deemed to be concluded electronically unless the addressee accepts the contracts a second time after reading the terms and conditions. The contract is then deemed to be formed at the time the offeror receives the addressee's consent.

Reverse decision (Article 129 of the Electronic Transactions and Personal Data Law): A consumer who enters into an online contract may reverse his/her decision to buy/hire goods or services within a period of ten days from the date of the contract for services or from the date of delivery for goods. The parties may agree to a longer period.

However, the consumer may not exercise the right set forth in the preceding subsection in the following events:

- If they benefit from the service or use the goods before the elapsing of the ten-day period.
- If the contract includes goods made to order or according to specifications defined by the consumer.
- If the contract involves video tapes, discs or CDs: In case their covers have been removed.
- If the contract involves the purchase of newspapers, magazines and other publications.
- In case the goods become defective due to bad maintenance by the consumer.
- If the contract involves accommodation, transport, food or entertainment services delivered on a specific date or periodically at agreed-upon intervals.
- If the contract involves the purchase of software services online, except when the software is not downloaded or functional.

LEBANON

TAX/FUNDING

Lebanese startups are typically organized in the form of an SAL company (corporation) or an SARL company (limited liability company).

General – Corporate Income Tax

In principle, SAL and SARL companies are subject to a flat Corporate Income Tax rate at 17% of the taxable result. Dividends paid by SAL and SARL companies to their shareholders/ partners are subject to a 10% withholding tax.

Exemptions – Startups

SAL and SARL companies may be exempted from Corporate Income Tax if they are incorporated between 5 November 2022 and 15 November 2027 and they meet the criteria of a Startup Company as defined by the Ministry of Finance as follows:

- Founded by one or several individuals (not a legal entity) for the purpose of developing and launching an innovative product or service;
- Such product or service fills a market gap or is irreplaceable;
- The product or service shall have an innovative or technological leverage to produce a new product or to provide an existing service in a new way.
- Hire Lebanese (80% of the workforce)

Other Exemptions – Offshore and Holding companies

Offshore companies are exempt from CIT and from the WHT on dividends, and are instead subject to a lump-sum annual tax of LBP 50 million (around USD 550).

Lebanese holding companies are exempt from CIT and from WHT on dividends. However, they are subject to a tax on their paid-up capital and reserves. As of 2022, total tax payments on paid-up capital and reserves are capped at LBP 50 million (around USD 550).

Moveable Capital WHT: A 10% WHT is levied on income derived from movable capital generated in Lebanon. Taxable income is comprised of the following:

- Distributed dividends, interest, and income from shares.
- Directors' and shareholders' fees.
- Distribution of reserves or profits.
- Interest from loans to corporations.

Withholding Tax on Royalties: Royalties paid by a Lebanese company to a non-Lebanese recipient are subject to WHT at a rate of 8.5%. This tax rate can be reduced or increased under an applicable tax treaty.

Capital Gains Tax: Capital gains recognized from such a revaluation, as well as any profits that may be realised from the disposal of fixed assets, are subject to a capital gains tax of 15%.

Additionally, are also subject to a capital gains tax of 15%: (1) the profits made from the transfer of real estate that is not part of the main activity of the transferor who do not work as part of that, and (2) the profits made from the transfer of fixed assets by tax subjects (natural and legal persons) taxable of the basis of deemed profit.

Moreover, Decision no. 323 issued 15 May 2023, addressed the tax treatment of income from disposal of shares realized by an individual as follows:

- 10% Movable capital tax when the shares disposed of are shares of Lebanese or foreign Limited Liability Company
- 17% Corporate Income Tax when the disposal of shares represents a commercial transaction for the resident individual
- Exempt from tax when the shares disposed of are shares of foreign Joint Stock Company
- Exempt from tax when the shares disposed of are not part of any of the above-mentioned scenarios.

VAT: The standard VAT rate in Lebanon is 11%. Unless specifically exempt, VAT is levied on all commercial transactions undertaken by business entities. Export of goods and services and export-related services, international transport, and some of the intermediate operations are zero-rated, while banking, financial services, and insurance operations are exempt from VAT.

TAX/FUNDING, CONT'D

Funding / Incentives / Incubation / Mentorship – In Lebanon, there are several programs where startup founders can receive funding, incentives or support regardless of their development stage. The following list is not limitative.

Kafalat SAL	Funding
IDAL (Business Support Unit)	Incentives, Business Support
Talal and Madiha Zein AUB-Innovation Park	Incubation, Business Support, Funding, Networking
Berytech	Incubation, Business Support, Funding
Smart esa	Accelerator, Business Support, Networking
Bloom	Accelerator, Business Support, Networking
LAU Innovation Center	Incubation, Business Support, Funding, Education, Networking
Asher Center for Innovation and Entrepreneurship	Business Support, Education
LEAP Ventures	Funding (VC)
Middle East Venture Partners (MEVP)	Funding (VC)
IM Capital	Funding
INJAZ Lebanon	Training, Funding

WHAT ELSE?

Entry to Lebanon

Usually entrepreneurship activities whether in food, trade, health or others are activities reserved to Lebanese. Palestinians born in Lebanon and duly registered before the Ministry of Interior, foreigners born from a Lebanese mother or married to a Lebanese wife as well as stateless persons born in Lebanon bearing a stateless card issued by the Lebanese authorities are assimilated to Lebanese and are authorized to start a business in Lebanon.

Regarding foreigners not meeting the above requirements, the Minister of Labour may, grant a work permit depending on several factors like the high capital, the economic benefit and job creation for Lebanese citizens, while respecting the quota reserved for foreigners (1 foreigner for every 3 Lebanese; in restaurants the quota is 1 foreigner for every 5 Lebanese).

Foreigners seeking entry to Lebanon to start a business, with or without pay, are required to obtain a prior approval from the Ministry of Labour. The foreigner shall apply abroad, through the official Lebanese mission or in Lebanon through an authorised representative (for example: lawyer).

Registration with the Chamber of Commerce

If a local or foreign company wants to engage in trading activities, it must also be registered at one of the four local chambers of commerce and industry. The registration is also particularly needed for the exportation of products and the issuance of a certificate of origin.



LITHUANIA

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LITHUANIA

LEGAL FOUNDATIONS

The Lithuanian legal system is principally based on the legal traditions of continental Europe and thus follows the civil law system. Substantive branches of the Lithuanian law are codified in codes (e.g., Civil Code, Labor Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, etc.). The regulatory system includes the Constitution, constitutional laws, other laws, as well as the implementing legal acts. International treaties and conventions automatically become part of the Lithuanian legal system from the moment of signing, accession, or ratification.

The courts are obliged to take into consideration published decisions of the Supreme Court and the Supreme Administrative Court of Lithuania, as well as when ruling in the relevant categories of cases, the courts are bound by their own precedents – decisions in analogous cases.

Lithuania is a member of the European Union (EU) since 1 May 2004. Accordingly, the EU regulations and decisions become binding automatically in Lithuania on the date they enter into force, and EU directives are incorporated into the national legislation of Lithuania.

CORPORATE STRUCTURES

Typical structures for Lithuanian entities are as follows:

A Private Limited Liability Company

According to the statistics provided by the Register of Legal Entities, a private limited liability company (lit. uždaroji akcinė bendrovė) is one of the most popular forms of companies in Lithuania which may engage in any legitimate activities, or in licensed activities upon obtaining the respective license. A private limited liability company is a private legal entity with limited civil liability, i.e. the company's assets are separated from those of shareholders. If a legal person defaults on an obligation due to a participant's fraudulent actions, that participant is also liable with their personal assets.

The share capital of a private limited liability company is divided into shares and must be at least EUR 1,000. The company must have a general meeting of shareholders and a single management body - the company's chief executive officer (CEO). Management board (consisting of at least 3 members) and/or supervisory council (consisting of 3-15 members) are optional bodies. There are no residence requirements to the company's CEO and/or other members of other management bodies.

Moreover, both natural and legal persons can be the founders of the company. Each shareholder in the company has such rights as are granted to them by the shares of the company they own. Under the same circumstances, all shareholders of the same class have the same rights and obligations. Shareholders can pay out the profit earned by the company only through dividends or by receiving a salary, in which case employment related taxes will apply.

CORPORATE STRUCTURES, CONT'D

A Small Partnership

Another common form in Lithuania is a small partnership (lit. mažoji bendrija). The members of a small partnership may be held liable for the obligations of the small partnership only in the event of fraudulent actions of the members.

A small partnership is a private legal entity, all whose members are natural persons. A small partnership cannot have more than 10 members.

There is no requirement to form the minimum capital of a small partnership (as opposed to a private limited liability company). The management structure of the small partnership may be (i) the meeting of the members where the representative of the small partnership is elected (however, decisions are made in all cases by a meeting of members); or (ii) the meeting of the members and the chief executive officer.

Finally, members have a right to voluntarily leave the business: a member of a small partnership may leave the partnership by withdrawing their contribution or by selling / transferring their membership rights.

Comparison of A Small Partnership and Private Limited Liability Company

	Small Partnership	**Private Limited Liability Company**
Establishment	Establishment is possible electronically through the self-service system of the Register of Legal Entities or through a notary. Only natural persons/individuals (1-10 members) can be founders.	Establishment is possible electronically through the self-service system of the Register of Legal Entities or through a notary. Founders can be both individuals and/or legal persons.
Liability	Limited civil liability. The property of a legal entity is separated from the property of shareholders/members. The owner is liable for the obligations of the company only for the amount that they must pay for the shares or with their own contribution, except in the event of failure to fulfil obligations due to fraudulent actions.	
Capital and contributions	There is no minimum capital requirement. Contributions of members of a small partnership can be monetary or non-monetary.	The share capital must not be less than EUR 1,000. The share capital is divided into shares, which are paid in cash and / or non-monetary contribution owned by a shareholder.
Structure	The management structure can be twofold: • only the meeting of the members of a small partnership, where the representative of a small partnership is elected (however, decisions are made in all cases by a meeting of members); • the meeting of the members of a small partnership and the company's chief executive officer.	A private limited liability company must have a general meeting of shareholders and a company's chief executive officer. In addition, a supervisory board and a board may be formed, however, not mandatory.
Company chief executive officer	It is not mandatory to elect the company's chief executive officer. If a chief executive officer is elected, a civil contract is signed with the company's chief executive officer.	It is mandatory to elect the company's chief executive officer. The employment contract is signed with the company's chief executive officer.
Decision making	One member has one vote, but if a small partnership has a chief executive officer, a small partnership's articles of association may specify a different voting procedure.	If all voting shares have the same nominal value, each share carries one vote at the shareholders meeting.

Although other legal forms are available (e.g., public limited liability companies, sole proprietorships), those discussed above are most frequently used in Lithuania.

LITHUANIA

ENTERING THE COUNTRY

Pursuant to Lithuanian law, there are a few investment restrictions to be aware of for investors when entering the country.

Permission of the Competition Council

The expected concentration (i.e., merger or acquisition of control) must be notified to the Lithuanian Competition Council (LCC) prior to its implementation and the permission must be obtained if the combined aggregate income (without VAT) received in Lithuania in the business year before the concentration exceeds EUR 20,000,000 and the aggregate income of each of at least two involved undertakings in the business year before the concentration exceeds EUR 2,000,000. The concentration cannot proceed without LCC approval.

Verification of investors' compliance with national security interests

Investors who want to invest in companies important for national security, which operate in Lithuania's strategically important economic sectors, must obtain the clearance from the Commission for Coordination of Protection of Objects of Importance to Ensuring National Security.

Economic sectors strategically important for national security are:

1. energy;
2. transport;
3. information technologies, telecommunications and other high technology;
4. finance and credit;
5. military equipment.

The verification of the investor is carried out on the basis provided by the law, which are:

1. when the investor transfers equipment or assets important for ensuring national security or pledges equipment or assets important for national security to secure their claims, or mortgages them;
2. when the investor acquires the relevant shares of companies important for ensuring national security or when concluding agreements on the transfer of voting rights and acquiring the right to exercise the non-property rights of the shareholder;
3. when the investor purchases the respective parts of the convertible bonds of companies important for ensuring national security;
4. when the investor, in accordance with the procedure established by law, transfers the assets specified in the security plan of the company important for ensuring national security;
5. when the investor, to secure their claims, pledges the assets specified in the security plan of the company important for ensuring national security, or establishes a mortgage on these assets to secure these claims.

During the verification, the investor's compliance with the criteria established by the law is assessed. If the investor is considered not to meet the interests of national security, the investor is not allowed to enter into an agreement. There may also be conditions which, if fulfilled, would eliminate the reasons causing risks to national security, thus allowing the execution of the agreement/action under consideration.

LITHUANIA

INTELLECTUAL PROPERTY

The following IP rights are registered:

Trademarks

What is protectable? A mark (words, including personal names, designs, letters, numbers, colors, the shape of goods or their packaging, sounds, etc.) with the purpose to distinguish between the goods or services of one person and the goods or services of another person and which can be recorded in the register.

Where to apply? Trademark applications can be filed either with (i) the State Patent Bureau of the Republic of Lithuania, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The procedure for registration of a Lithuanian trademark is similar to the procedure before the EUIPO. The registration process takes about 4-8 months, but the temporary protection of the mark applies from the publication of the application. One of the stages of registration is 3 months' time limit within which the persons concerned may lodge oppositions if they consider that the mark to be registered may be in conflict with their prior rights. If no oppositions are received, the trademark is registered and the registration is published. The application of a Lithuanian trademark can be easily filed via the online platform on https://vpb.lrv.lt/en/services/trademarks. In any case, before filing an application it is strongly recommended to perform a scan of the existing trademarks and other business identifiers.

Duration of protection? The trademark registration is valid for ten years. It can be extended for a period of ten years an unlimited number of times.

Costs? Application costs for a Lithuanian trademark for one class amount to EUR 180 (plus EUR 40 per each additional class). In addition, fees of the legal representative apply. Financial support mat be available for SMEs – see https://vpb.lrv.lt/en/.

Patents

What is protectable? Inventions in the field of technology are patentable. This requires that the invention is novel, not obvious to a skilled professional and can be applied in industry.

Where to apply? Patent protection is territorial, meaning that applicant must register the patent in each country where protection is sought. Patent application can be filed with either the State Patent Bureau of the Republic of Lithuania, European Patent Office, or WIPO. In any case the protection granted to an invention by a patent is valid only in the territory of the country where the patent was obtained. The application of a Lithuanian patent can be filed online on https://vpb.lrv.lt/en/services/inventions.

Duration of protection? The term of protection is in any case a maximum of 20 years from application and must be maintained by annual fees from third year.

Costs? Application costs for a Lithuanian patent for up to 15 claims amount up to EUR 86, every additional claim fee is EUR 14. In addition, fees of the legal and technical representative apply. Financial support mat be available for SMEs – see https://vpb.lrv.lt/en/.

Unitary Patent and Unified Patent Court. As of 1 June 2023, the Unitary Patent system has taken effect in the European Union countries, including Lithuania. The system makes it possible to get patent protection in the EU Member States having ratified the Agreement on a Unified Patent Court (UPC Agreement) by submitting a single request to the European Patent Office. More information on Unitary Patent and Unified Patent court is available here: https://www.epo.org/en/applying/european/unitary/unitary-patent.

LITHUANIA

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? An image of the whole product or part of it, consisting of specific features of the product and/or its ornamentation – lines, contours, colors, shape, texture and/or material can be protected as design, if it is new and has individual characteristics.

Where to apply? National designs may be registered with the State Patent Bureau of the Republic of Lithuania. To obtain protection throughout the EU, an EU Design may be registered with the EUIPO. Via the State Patent Bureau or EUIPO applicants can also file for designs with the WIPO worldwide as Lithuania is party to the Hague System for registering international designs. The application of a Lithuanian trademark can be easily filed via the online platform on https://vpb.lrv.lt/en/services/design.

Duration of protection? The term of protection is five years and can be renewed four times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? Filing fee for a Lithuanian design application is EUR 69, plus an additional fee of EUR 26 for 11th and each subsequent design per class, and EUR 69 fee for registration and publication of design for a single design application. In addition, fees of the legal representative apply. Financial support mat be available for SMEs – see https://vpb.lrv.lt/en/.

The following IP rights are not subject to registration:

Copyright

What is protectable? Copyright objects are original literary, scientific and artistic works that are the result of creative activity expressed in some objective form. Copyright protection is granted immediately with the creation of a work. No registration and no label required. An author can attach a copyright notice to the work, such as "all rights reserved" or the © symbol – together with the year the work was created and the name of the author.

Types of rights: Authors have economic rights (exclusive rights to allow or prohibit reproduction, publication, translation, adaptation, arrangement, dramatization or other transformation of a work, distribution of the original or copies of a work to the public, public display, etc.) and moral rights (the right of authorship, the right to the author's name, and the right to inviolability of the work).

Duration of protection? Economic rights are valid for the entire life of the author and for 70 years after their death, moral rights – for an indefinite period.

Trade Secrets

What is protectable? Trade (commercial) secrets are protected under the Civil Code and the Law on Legal Protection of Commercial Secrets of the Republic of Lithuania. A trade (commercial) secret is information that is not public, possesses commercial value or its loss would be commercially harmful, and the person takes adequate measures to protect such information.

Protection measures: The protection measures should be adequate to the type and value of the information and may include (a) organisational measures, such as non-disclosure agreements (NDAs) with employees, partners, other third parties, in certain cases non-competition agreements with employees, approval of the list of trade (commercial) secrets, internal rules and regulations, determination of access rights, etc., and (b) technical measures, such as IT security measures, passwords, physical security, etc.

Duration of protection? Trade (commercial) secret protection applies as long as appropriate measures are in place, the information is kept non-public, and it has a commercial value.

LITHUANIA

DATA PROTECTION/PRIVACY

The General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR) is the main legal act applied directly, regulating and stipulating the general rules for data protection in Lithuania. The GDPR is supplemented by the Law on Legal Protection of Personal Data of the Republic of Lithuania (Personal Data Protection Law). If businesses do not have any presence (as data controller or data processor) in Lithuania, the Personal Data Protection Law is not applicable.

The relevant Lithuanian particularities determined in the Personal Data Protection Law are the following:

- National identification number (personal code) can be processed when at least one of the bases stated in Article 6 of the GDPR are met. It is forbidden to publish personal code and to process it for direct marketing purposes.
- If personal data is being processed for journalistic purposes and the purposes of academic, artistic, or literary expression Articles 8, 12–23, 25, 30, 33–39, 41–50, 88–91 of GDPR are not applied.
- The employer cannot process personal data concerning convictions and criminal offenses of a candidate or employee, except where such personal data are necessary for the purpose of verifying compliance with the laws and regulations in force for work position or if it is necessary to ensure the legitimate interests of the employer.
- The employer can collect personal data relating to the qualifications, professional abilities, and business qualities of a candidate from the former employer only after informing the candidate about such data collection and from the current employer only with the consent of the candidate.
- The employer must inform employees in writing or by other means by submitting the information referred to in Article 13 (1) and (2) of GDPR, regarding any surveillance performed on employees (video or audio recording, reading of employee letters, etc.).
- The child must be 14 years old to give their consent in relation to information society service.

In Lithuania data protection supervision is divided between two supervisory authorities:

- The main supervisory authority is the State Data Protection Inspectorate (in Lithuanian: Valstybinė duomenų apsaugos inspekcija); and
- The Office of the Inspector of Journalist Ethics (in Lithuanian: Žurnalistų etikos inspektoriaus tarnyba) is supervising data protection when data is processed for journalistic, academic, artistic, or literary expression purposes.

Direct marketing and cookies

- The Personal Data Protection Law defines direct marketing as an activity intended for offering goods or services to individuals by post, telephone, or any other direct means and/or for obtaining their opinion about the offered goods or services.
- The Electronic Communications Law of the Republic of Lithuania requires opt-in consent (as defined in the GDPR) before engaging in direct marketing activities in respect of any natural or legal persons. Nevertheless, the Electronic Communications Law provides for an exception — direct marketing e-mails may be sent on an opt-out basis to the current customers, whose data were received in the context of the sale of a product or a service provided that customers clearly and distinctly were given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when such data were collected and on the occasion of each message in case the customer has not initially refused such use. The draft amendment is expected to enter into force in 2026 and would permit direct marketing to legal entities without prior consent, on an opt-out basis.
- Also, prior consent is required for setting cookies which are not necessary for the provision of the service, irrespective whether personal data is processed or not. Thus, opt-in is required for all marketing, analytics, etc. cookies.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Lithuania. The general rules, including those under data protection and copyright law, apply. The EU AI Act applies in Lithuania.

LITHUANIA

EMPLOYEES/CONTRACTORS

General

There are two main options how a natural person could provide services or work functions for another person:

- According to civil contract. This option is allowed only if there are no employment elements. In such case, a natural person performs individual activity for a client and such natural person is basically regarded as a businessman/self-employed. There are various types of civil contracts depending on the content of the agreement, the obligations between the parties and other circumstances. Civil relationships are not regarded as employment relationships and both parties are considered as independent businesses. Civil relations are regulated more flexibly than employment relationships, and as a general rule, the parties of a civil contract can agree on work for hire regime, the procedure and conditions for termination of the contract, and other aspects.
- According to employment contract. This option is mandatory, if there are employment related elements, such as, including, but not limited to: (i) continuous type of job functions; (ii) remuneration based on constant/fixed size; (iii) natural person's subordination, control, obligation to comply with internal regulations and orders of supervisors; (v) natural person's integration into the internal structure of the company; (vi) provision of work equipment.; (vii) lack of independency when working, etc. If employment elements exist, not civil, but an employment contract must be concluded. Employment relationships provide wider economic, social and legal guarantees for employees. Labor laws regulate various aspects of employment relationships and cover minimum employment standards which must be followed, including terms and conditions for conclusion, execution and termination of employment contract, occupational health and safety, maximum working time and minimal rest time, minimal wage, social partnership aspects, etc. In general cases, it is not allowed for the parties of employment contract to deviate from the mandatory labor law provisions, except specific cases (e.g., when employee's salary is bigger than 2 average national monthly gross wages).

Conclusion of a contract

- If a civil contract could be concluded, then: (i) a person should register their individual activity in Lithuania, before concluding the contract; (ii) it is recommended to conclude a written civil contract to avoid risks of recognizing illegal work.
- If an employment contract must be concluded, then: (i) a written employment contract, which complies with the Labor Code and other laws of Lithuania, must be concluded; (ii) before the start of employment, employer must provide the information about employee's employment to Social Security Fund of Lithuania (so the employee is covered by state social insurance); (iii) employer must inform the employee about working conditions, health and safety aspects, etc.

Payment of taxes and social security contributions

- If the civil contract could be concluded, then the contractor declares and pays taxes and social security contributions by themself.
- If an employment contract must be concluded, then the employer is responsible for proper calculation, deduction, declaration and payment of taxes, social security and other contributions.

Work for hire regime

Parties of a civil contract could agree on work for hire regime. Meanwhile, labor laws of Lithuania do not determine such work for hire regime option in employment relationships. Any employment contract should contain a working time norm in hours per day, week or another period, as the failure to comply with this working time norm may lead to various risks (e.g., overtime for exceeding working time norm). However, despite work for hire regime is not explicitly allowed in Lithuania, parties of employment contract may agree on different working time regimes (e.g., summary working time regime, flexible working time regime, individual regime, etc.).

EMPLOYEES/CONTRACTORS, CONT"D

Termination

- Generally, a civil contract can be terminated according to terms and conditions provided in a civil contract.
- Employment contract can be terminated only according to imperative grounds and reasons provided in the Labor Code and other laws of Lithuania, following the established procedures, terms, restrictions, and other rules. The grounds, procedures, terms, restrictions, and other rules of termination of employment contract depend on the specific existing reasons of termination. The most liberal ground of termination is the termination by the will of employer due to non-discriminatory and other specifically determined reasons, by informing the employee 3 working days in advance and paying a compensation of 6 average wages. Certain groups of employees (e.g., pregnant employees, employees having young children, etc.) are provided with particular guarantees restricting their dismissal under specific grounds. If an employee is dismissed from work in the absence of a legal basis or in violation of the procedure established by laws, such dismissal could be recognized as being unlawful and compensation may be awarded: a) for the period of forced absence from the unlawful dismissal until the court decision declaring the dismissal unlawful, but not more than 12 months; and b) compensation for unlawful dismissal, 1 average salary for 2 years of work, but not more than 6 months

CONSUMER PROTECTION

Lithuania has transposed the EU directives regulating consumer rights. Thus, the consumer protection law is rather strict in Lithuania as in all the EU countries.

The protection of consumer rights in Lithuania mostly is governed by the Law on the Protection of Consumer Rights, the Civil Code (Chapter XVIII1 of Book 6), the Law on the Prohibition of Unfair Business-to-Consumer Commercial Practices. Other laws that a start-up may also be subject to are the Law on the Safety of Products, the Law on Advertising, other provisions of the Civil Code, the Law on the Information Society Services, the Rules of Retail Trade, the Product Labelling and Price Indication Rules, as well as other more general legislation. Specific legislation, hygiene standards and other requirements may also apply, depending on the product or service being offered.

These laws apply to all activities targeted to Lithuanian consumers (e.g., language, delivery to Lithuania, etc.), irrespective where the entity resides.

In the business-to-consumer (B2C) sector, businesses must guarantee the right of consumers to obtain information, to choose the seller or service provider of products or services, to purchase and use products or services, and must ensure that the products and services the consumers choose are safe and of high quality. The businesses are also required to observe fair business practices and to otherwise ensure the protection of consumer rights.

In the event of a breach of consumer protection legislation, consumers have the right to appeal to consumer dispute resolution bodies or to a court of general jurisdiction, and the public interest of consumers can be protected by the Consumer Rights Protection Authority (in Lithuanian: Valstybinė vartotojų teisių apsaugos tarnyba) and other institutions in the cases determined by law. At the request of a consumer, a consumer association or a state or local authority, the Consumer Rights Protection Authority also examines consumer contracts to identify unfair terms, and if it finds that a consumer contract contains an unfair term, it obliges businesses to refrain from applying it and to conclude a new contract and further perform the already concluded consumer contracts.

Failing to comply with consumer protection requirements can result in a legal dispute, administrative and financial costs, and fines of up to 3% of the business's annual revenue for the previous fiscal year, however not exceeding EUR 100,000, and in the event of a repeated infringement in the same year - up to 6% of the business's annual revenue for the previous fiscal year, however not exceeding EUR 200,000. For widespread infringements (i.e., affecting consumers in at least three EU Member States) or EU-widespread infringements (i.e., harming the collective interests of consumers in at least two-thirds of all EU Member States, accounting, together, for at least two-thirds of the population of the EU), a fine of up to 4% of annual revenue in the Member State concerned, or up to EUR 2,000,000, may be imposed on the business.

CONSUMER PROTECTION, CONT'D

On-line activities and consumer rights
All websites must contain the following legally required information about the operator of the website:

- the name of a legal or natural person,
- the address of the registered office or residential address,
- contact details, including email address,
- the public register in which the data are collected and stored, the registration number or similar identification in that register if the person is required to be registered with the public register,
- the details of the authority supervising a person's activities (where the activities are subject to supervision),
- VAT payer's number if the person is a VAT payer,
- if the person is engaged in regulated activities or is required to have special permits or certificates (such as a food business licence, phytosanitary certificate, etc.), the details of these.

Consumer rights for distance (off-premises) contracts are regulated by the Civil Code. According to the Civil Code, a consumer may withdraw from a distance contract within 14 days from the day of delivery. The seller must inform the consumer of their right to withdraw from the contract, otherwise the consumer may return the item within 12 months of delivery. Some exceptions are applicable to the consumer's right of withdrawal, e.g., sealed goods which are not suitable for return due to health protection or hygiene reasons cannot be returned if goods have been unsealed after delivery. Upon withdrawal of a contract, the seller must refund all the sums paid by the consumer, including the delivery costs paid by the consumer. The return costs are to be paid by the consumer.

Certain specific requirements are applicable to the sale of digital content or services.

TERMS OF SERVICE

Terms of Service constitute a contract between the service provider/seller and the client, and to be enforceable the will to enter into the contract by both parties has to exist. As a matter of practice, the will of the client is expressed through a tick-box. The consumer must have a real opportunity of becoming acquainted with the terms before the conclusion of the contract.

Information to be provided in B2C Terms of Service
In B2C cases, the stricter consumer protection rules apply (please see the answer to question 8). The information to be provided by a business to consumer before entering into a contract on-line includes the following:

- main terms of the contract, including payment and delivery arrangements, a reminder of the statutory warranty,
- information about the right of withdrawal (conditions, time-limits and procedures for implementing this right) as well as a model form of withdrawal or information to the effect that the consumer is not entitled to the right of withdrawal or, where appropriate, the circumstances in which such right of withdrawal is forfeited,
- in case of digital content: (a) functional properties of the digital content, including any technical protection measures applied; (b) compatibility of the digital content with hardware and software to the extent to which the trader is/should be aware; (c) information on updates (including security updates) that are necessary to keep the digital content in conformity,
- the procedure for handling by the trader of consumer complaints, contacts of the Consumer Rights Protection Authority which handles the consumer complaints in an out-of-court manner.

Also, the business must give consumer confirmation of the contract on a durable medium within a reasonable time after the date of the contract but in any event not later than the time of delivery of the products or the beginning of performance of the services.

In case of an online marketplace, the online marketplace service provider must additionally provide the following: (a) general information on the main parameters used to rank the products offered in response to the consumer's search request, including a relative importance of those parameters as compared to the other parameters; (b) whether the products, services or digital content are offered by the trader; (c) information that no consumer protection requirements are applicable to contracts where the person offering products, services or digital content is not a trader; (d) information on the allocation of contractual obligations between the person offering products, services or digital content and the provider of online marketplace services.

TERMS OF SERVICE, CONT'D

Unfair B2C contract terms
The business must ensure that the B2C Terms of Service do not contain unfair contract terms, including those that: (a) exclude or limit the trader's liability for damage in the event of the death of or personal injury to the consumer or damage to the consumer's property; (b) enable the business to alter the Terms of Service unilaterally without a valid reason or grounds specified in the Terms of Service; (c) permit the business to unilaterally alter any characteristics of products or services, etc.

The B2B Terms of Service are not specifically regulated. They must comply with general civil law requirements.

TAX/FUNDING

Tax

Lithuanian start-ups are usually organized as limited companies, so the main tax consideration is the corporate income tax that will be applied. Other tax obligations may include the collection and remittance of VAT, personal income tax, etc.

Corporate income tax:
- the standard rate is 17%;
- reduced rate is 7% for qualifying small companies whose total annual revenue does not exceed EUR 300,000 per tax (calendar) year;
- start-up relief: newly established small entities may apply a 0% CIT rate for the first two tax years, provided that the statutory criteria are met: the company's annual revenue does not exceed EUR 300,000 (including revenues of related parties under the related-persons rule); the founders are natural persons; during the first, second and third years from incorporation the company's activities are not suspended; the company is not liquidated or reorganized; and the company's shares (interests, units) are not transferred to new shareholders).

WHT: on dividends 0% if the parent company holds ≥10% of shares for ≥12 months (participation exemption), 17% in other cases (double tax treaty (DTT) relief may apply); interests and royalties generally 10% or 5%/0% (if DTT is applied, application of reduced DTT rates requires proper documentation: residence certificate, beneficial ownership confirmation).

Capital gains: gains from sale of shares are subject to the standard 17% CIT, unless the participation exemption applies (≥25% holding for at least 2 years) for corporate holders; capital gains are subject to personal income tax (PIT) for individuals, rates depend on income thresholds and category, typically 15% or progressive rates 20/25/32%.

R&D Incentive: Expenditure on research and/or experimental development (R&D), other than depreciation of fixed assets, may be deducted from income up to three times provided that the R&D activities are related to the ordinary or foreseeable activities of the company from which it derives, or is expected to derive, income or other economic benefits. Tax rate of 7% is applied to profits generated from the commercialization of R&D inventions (i.e. use, sale or other transfer).

Accelerated depreciation: from 2026, taxpayers are permitted to apply immediate depreciation (i. e. full tax deduction in the first tax year) to qualifying newly acquired tangible assets used in carrying out economic activities, subject to compliance with statutory criteria. The regime allows for accelerated recovery of capital expenditure for CIT purposes.

Loss carry-forward: tax losses may generally be carried forward indefinitely; however, offset against taxable profits is limited (up to 70% of taxable income per year). Group loss transfer is available under conditions.

Transfer pricing: all related party transactions (including management services, IP licensing, intra-group loans and other financing arrangements) must comply with the arm's length principle. Transfer pricing documentation requirements apply depending on company size and transaction value.

TAX/FUNDING

Tax, CONT'D

Value added tax: the standard VAT rate is 21%, reduced rates 5% and 12%. VAT registration threshold is EUR 45,000 (taxable turnover in Lithuania) during the calendar year; Intra-EU acquisition threshold is EUR 14,000 per calendar year. Startups providing SaaS (Software as a Service), marketplaces or digital B2C services must consider EU VAT place-of-supply rules and OSS registration. Cross-border B2B services typically fall under reverse charge rules.

Personal income tax rates:

- 20% (for income not exceeding EUR 83,237.40 per calendar year in 2026), 25 % (for income from EUR 83,237.40 to EUR 138,729) and 32% (for the exceeding part above EUR 138,729);
- 15% for profit distributions, capital gains on share disposals and certain other types of income, subject to statutory conditions;
- 15% PIT (progressive 20%/25%/32% may apply once overall annual income thresholds are exceeded) for income from individual activity.

Social security contributions: The overall basic rate is 19.5% (for self-employed persons) and 21.27% (for employment relations). Contribution ceiling applies (linked to 60 average wages annually, EUR 138,729 in 2026).

Employee stock option (ESOP) relief: exercised at no cost or at a lower price than the fair market value not earlier than three years after the grant date, employee stock options are treated as non-taxable income for income tax and social security purposes. Taxation may arise upon disposal of shares: a 15% PIT rate applies if the shares were acquired under an employee stock option and have been held for at least three years (subject to statutory conditions), if no other reliefs apply, progressive PIT rates apply.

Funding: Lithuania boasts a dynamic and growing funding landscape for startups. Startups can explore various funding options depending on their stage, including public funding, crowdfunding, accelerators, angel investors, and venture capital.

Key trends of the Lithuanian startup ecosystem include:

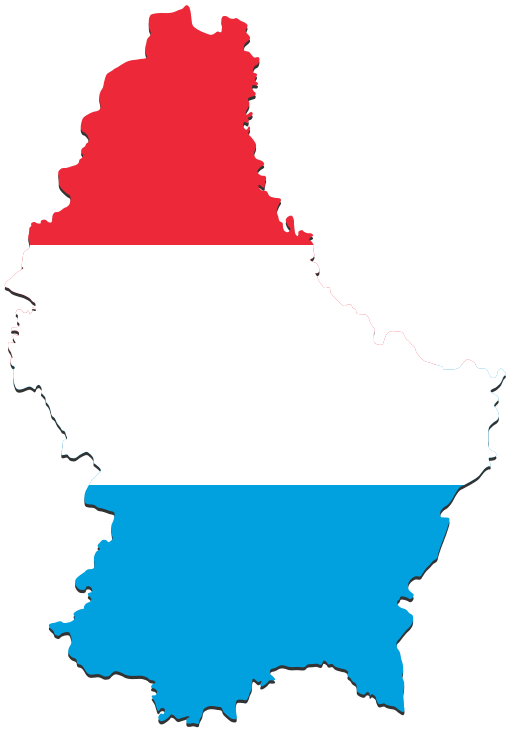
- A growing venture capital presence, attracting both local and international capital.
- An increasingly organized and active angel investor community providing seed and early-stage funding.
- Government support through various programs, grants, and tax incentives.
- The emergence of crowdfunding platforms, offering access to a broader range of startups.
- A focus on sectors such as fintech, life sciences, IT, biotechnology, data centers, cybersecurity, clean tech, and gaming.

Key contact points and links to further information in relation to startup funding in Lithuania:

- Invest Lithuania: Comprehensive information and support for investors, including funding opportunities and government programs (https://investlithuania.com).
- Startup Lithuania: Central hub for resources, news, and events in the Lithuanian startup ecosystem (https://startuplithuania.com).
- Lithuanian Business Angels Association (LitBAN): Facilitates connections between startups and angel investors (https://litban.lt/about/).
- Lithuanian Private Equity & Venture Capital Association: Represents the Lithuanian PE/VC industry, providing market insights and investment opportunities (https://vca.lt).
- Startup Visa Lithuania: Information on obtaining visas for startup founders (https://startupvisalithuania.com/).

WHAT ELSE?

Lithuania currently has a large number of fintech companies operating locally. The country has well-developed regulatory environment with experienced specialists in regulatory authority – Bank of Lithuania as they are responsible for the supervision of the largest fintech country in the whole European Union with over 150 licensed fintech companies. A high number of fintech companies created a talent pool for fintech companies making Lithuania an excellent choice for fintech companies considering their establishment in Lithuania.



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LEGAL FOUNDATIONS

Luxembourg's legal system is based on the **civil law** tradition. This means that its legal structure is primarily derived from written codes and legislation, that are constantly updated, and which are applied and interpreted by judges.

The organisation of the Luxembourg legal structure is based on the nature of the dispute and divided into the following two main branches:

Private law: It governs relationships between individuals and/or private legal entities, as well as any matters related to them (contracts, warranty, liability, etc.). This branch is composed of civil law, commercial law, criminal law, and employment law. The most important source of law in this context is the Luxembourg Civil code, but there are many more laws for each specific field.

Private law is governed by the judicial order, composed of three layers: (a) three Justices of peace which handle matters that do not exceed EUR 2,000.- for a decision at first and last instance or EUR 15,000.- for an appeal (in Luxembourg City, Esch-sur-Alzette and Diekirch), (b) two District courts (in Luxembourg City and Diekirch), and (c) the Superior Court of Justice (in Luxembourg City), composed of the Court of appeal, the Public Prosecutor's Office and the Court of cassation.

Public law: It governs any relationship involving a public authority, i.e. state administration, municipality, public company, and establishment.

Public law is governed by the administrative order, composed of an Administrative court and Administrative court of appeal, both in Luxembourg City.

Social security law could be considered as a third branch of law, which governs relationships with social security bodies. Claims for social security benefits should thus be taken before the social jurisdictions, which consist in the Social Security Arbitration Board and the Superior Council of Social Security.

EU Law EU Regulations are directly applicable and take precedence over domestic legislation without requiring national transposition. This hierarchy ensures that the Luxembourgish courts and administration apply European norms in the event of any conflict with national law.

Finally, the Luxembourg **Constitutional court** (Cour constitutionnelle) is composed of judges from the different orders above and it verifies the compliance of the law vis-à-vis the Constitution, which is the supreme norm of the country.

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CORPORATE STRUCTURES

Luxembourg law knows a multitude (this is often referred to as a "broad toolbox") of corporate forms, therefore it is advisable for a start-up to consult a legal advisor to check which form is best suited for its specific goals and purposes. It is worth noting that virtually all of them allow the start-up to start operations directly as of incorporation, as they acquire legal personality the day they are incorporated and there is thus no need to wait until their registration with the commercial register or other similar public registry. In addition, since Luxembourg is a multilingual jurisdiction, it is common for service providers to be fluent in English, French and German (so that the incorporation documents and any other documents a start-up needs during its lifecycle can be prepared in the aforementioned languages).

That being said, very often start-ups opt in practice for the private limited liability company (société à responsabilité limitée, hereafter S.à r.l.) given its flexible framework and comparatively low operational costs.

The main characteristics of the S.à r.l. are:

- It may have one or more shareholders, with an upper limit of one hundred (if that limited is reached, it needs to convert into another corporate form).
- The minimum share capital is EUR 12,000 (or equivalent in any convertible currency). The share capital has to be entirely subscribed and fully paid-up. This is considerably less than for the public limited liability company (société anonyme, hereafter S.A.), which has a minimum share capital of EUR 30,000.
- Unlike for a S.A., contributions in kind (i.e. contributions other than cash) by shareholders do not require the preparation of an audit report from an independent auditor, which report has cost and timing implications.

In 2016, the Luxembourg legislator has also introduced the so called simplified private limited liability company (société à responsabilité limitée simplifiée, hereafter S.à r.l.-S) which has a minimum share capital of only EUR 1,00. While thus at first sight quite attractive for start-ups, they should keep in mind that (i) a S.à r.l.-S cannot be a pure holding company and (ii) its shareholders can only be physical persons – which can become a roadblock for cross-border future fundraising efforts.

Finally, while partnerships such as the S.C.A. (partnership limited by shares), S.C.S. (simple limited partnership) and S.C.S. (special limited partnership) have a very flexible contractual framework, they are more rarely chosen by start-ups given the necessity to have at least two shareholders from the start, i.e. one general partner (actionnaire commandité), who is liable indefinitely for the obligations of the company (and thus, to limit that unlimited liability, will in turn very often be a limited liability company), and one limited shareholder (actionnaire commanditaire), having a liability that is limited to the amount of its contribution/commitment. This setup thus entails comparatively high set-up and administration/running costs. However, especially once the start-up has reached a certain growth stage, partnerships are sometimes used as pooling vehicles for employees of the start-up/of its group companies given that they allow for a separation of control and managing powers (vested in the general partner, itself controlled by the start-up or its founders) from rights which are of purely financial nature (for the employees).

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ENTERING THE COUNTRY

According to law of 14 July 2023 which introduced a national screening mechanism for foreign direct investment (FDI) , certain investments made by foreign investors (i.e., a natural person from or an entity incorporated outside the EU/EEA territories) must request prior approval of the Ministry of the Economy before being implemented.

This law applies to investments that enables the foreign investor to exercise - directly or indirectly, either alone or together with others or through an intermediary in the control of an entity established in Luxembourg, which is active in certain sectors in Luxembourg considered as critical, such as dual-use goods, energy, transport, water, health, communication, data processing or storage, aerospace, defense, finance, media and agri-food sectors., as well as related activities that can grant access to sensitive information or premisses of the critical activities.

Control is defined as the foreign investor holding at least 25% of the voting rights in the Luxembourg entity, or having the right to appoint or remove the majority of the members of its directors, management, or supervisory boards.

Note that the FDI screening mechanism also captures greenfield transactions and, consequently, the creation of startups. Should the foreign investor fail to request prior authorisation, the Ministry of the Economy can impose administrative measures and sanctions, including ordering the foreign investor to modify or restore the previous situation.

INTELLECTUAL PROPERTY

Intellectual property rights that require registration:

Trademarks

What is protectable? Any sign that is available, (i) which can be represented graphically, and (ii) which is able to distinguish the goods or services of a company from those of other undertakings, may be registered as a trademark. One can distinguish three types of trademarks: word/verbal trademarks, figurative trademarks and semi-figurative trademarks which are a combination of the two first. A trademark may for example consist of a simple word, drawings, symbols, numerals, three-dimensional signs such as the shape or packaging of the product, sound signs such as musical or vocal sounds, perfumes, or colours.

Where to apply? There is no national protection for trademarks in Luxembourg. Trademarks can be filed either with (i) the Benelux Office of Intellectual Property (BOIP), (ii) the European Union Intellectual Property Office (EUIPO), or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application of a Benelux trademark for the three Benelux countries (Belgium, Netherlands, and Luxembourg) is very similar to the one before the EUIPO. A BOIP trademark application can easily be filed via the online platform on https://www.boip.int/en/entrepreneurs/trademarks/register-a-benelux-trademark#step-4. The BOIP reviews the application and publishes the trademark if all minimum requirements for the trademark registration are met and if no absolute grounds for refusal have been identified. The BOIP does not examine whether earlier trademarks or rights to signs of third parties conflict with the application. After the BOIP's publication of the trademark in the gazette, the opposition period begins, during which any third party may file an opposition against the registration of the trademark. Such period is of two (2) months in case of a BOIP registration, contrary to the procedure before the EUIPO, where the duration of the opposition period is three (3) months.

Duration of protection? If no opposition is filed, the trademark is officially registered. The registration remains valid for a period of ten (10) years, which can be extended for an unlimited number of successive periods of ten (10) years.

Costs? Application costs for a Benelux trademark for three (3) classes amount to EUR 352.-. EUR 81.- are charged per additional class.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? To be protectable, inventions must be (i) novel, (ii) involve an inventive step, and (iii) be capable of industrial application, even when they relate to a product composed of or containing biological material, or to a process for producing, treating, or using biological material. Biological material isolated from its natural environment or produced using a technical process may be the subject of an invention, even when it pre-existed in its natural state[1].

Where to apply? Patent applications can be filed either with (i) the Luxembourg Intellectual Property Office of the Ministry of Economy, (ii) the European Patent Office (EPO) or (iii) the WIPO, depending on the territories in which patent protection is sought. The application for a patent in Luxembourg can be filed with the Luxembourg Intellectual Property Office of the Ministry of Economy either (i) via the Luxembourg section of the Benelux Patent Platform, (ii) via postal mail or (iii) via a physical submission at the premises of the office in Luxembourg. A Luxembourg patent application is not examined for patentability before the patent is granted and no verification of the accuracy of the description of the patent provided by the applicant is undertaken by the Luxembourg office. This means that the application will not be rejected because it may not fulfil the patentability requirements (i.e. novelty, inventive step and industrial applicability). The title constituting the patent is granted after eighteen (18) months by the Minister in the form of an order which will be entered in a specific register and published in the Mémorial, Recueil administratif et économique.

Duration of protection? The maximum duration of the protection is twenty (20) years from the date of application of the patent.

Costs? The application fee for a national patent is EUR 40.- and EUR 49.- for expedited delivery. This fee must be paid within one month of filing the application. For the establishment of a research report, if requested by the applicant, additional EUR 450.- will be charged by the Luxembourg Intellectual Property Office.

Specificities applicable in case of an employee invention? According to the 1992 Law, the invention belongs to the employer when it is made by the employee in the performance either of an employment contract including an inventive task corresponding to his actual duties, or of studies or research explicitly entrusted to him. The same applies when the invention is made by an employee either in the course of the performance of his duties, or in the field of the company's activities, or through the knowledge or use of techniques or means specific to the company or data provided by it. In that respect, the 1992 Law provides for a specific provision stating that where the employer makes a significant profit from the patent developed by an employee, the employer is obliged to grant the inventor (i.e. employee) an equitable share of the profit thus made. All inventions not covered above and developed by the employee on its own initiative and outside working hours, naturally remain the property of the latter.

Designs or models

What is protectable? A design (i.e. two-dimensional, such as patterns, lines or colours of a product) or model (i.e. three-dimensional such as the shape or texture of a product) is only protected insofar as (i) it is new and (ii) has an individual character.

Where to apply? As for trademarks, there is no national protection for designs and models in Luxembourg. They may be registered with (i) the BOIP, (ii) the EUIPO, or (iii) the WIPO, depending on the territories in which the model or design protection is sought. The application of a Benelux design or model for the three Benelux countries (Belgium, Netherlands, and Luxembourg) is very similar to the one before the EUIPO. A BOIP design/model application can easily be filed via the online platform on https://www.boip.int/en/entrepreneurs/designs/register-a-design. The BOIP analyses the application in view of its formal requirements and, if they are respected, the application is published and registered.

Duration of the protection? The term of protection is five (5) years and can be renewed four times for additional periods of five (5) years. The maximum term of protection is thus twenty-five (25) years.

Costs? The registration of a simple Benelux design or model amounts to EUR 150. The amount increases in case of multiple filings.

[1] Article 4 of the law of 20 July 1992 amending the system of patents, as amended (hereinafter the "1992 Law")

INTELLECTUAL PROPERTY, CONT'D

Intellectual property rights that do not require registration:

Authors' rights and related rights

What is protectable? Authors' and related rights apply to original literary, musical, artistic, or audiovisual works, including photographs, computer programs and databases. To be protected by those rights, the work must (i) be sufficiently original and (ii) have taken form (which excludes ideas or concepts).[2]

Duration of protection? The protection begins immediately after creation and ends seventy (70) years after the author has passed away.

Specificities applicable in case of employment: Contrary to other countries, there is in Luxembourg no automatic transfer of authors' and neighbouring rights created by an employee in the context of its employment to the employer. The transfer of such intellectual property rights must therefore be explicitly foreseen in the employment agreement or any other legal act between the parties. Such contractual provisions should be as specific as possible, as courts will interpret the grant of rights in a restrictive manner. If such transfer is not contractually foreseen, the employer may only use authors' rights and neighbouring rights after having received the explicit consent of the owner of the relevant rights (i.e. the employee). However, it should be noted that the 2001 Law foresees an exception to the above by stating that where a computer program is created by an employee in the performance of his duties or based on the instructions of his employer, the employer alone shall be entitled to exercise all economic rights (excluding moral rights) in the computer program so created, unless otherwise provided by the employment contract.

Know-how and trade secrets

What is protected? In addition to the above categories, classically seen as intellectual property rights, know-how and undisclosed commercial information (trade secrets) are also protected in Luxembourg against unlawful obtaining, use and disclosure of such information.[3] Trade secrets are protected if they meet the following three cumulative conditions: (i) the information needs to be secret, (ii) it needs to have commercial value due in particular to its secret nature, and (iii) it should have been the subject of reasonable measures by the holder for the purpose of preserving its confidentiality.

Duration of the protection? Unlike intellectual property rights, the protection afforded to a trade secret is not limited in time. A trade secret will therefore remain protected for as long as it meets the aforementioned three conditions and, in particular, for as long as it remains secret.

[2] Law of 18 April 2001 on authors' rights, neighbouring rights, and databases, as amended ("2001 Law")
[3] Law of 26 June 2019, transposing the Directive (EU) 2016/943

DATA PROTECTION/PRIVACY

The Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ("**GDPR**") is applicable in all EU Member States since 25th May 2018.

The GDPR contains a number of so-called "opening clauses" that allow Member States to provide for deviating, specifying or additional requirements. The Luxembourg legislator has made use of a limited number of these opening clauses by implementing the law of 1 August 2018 on the organization of the CNPD and implementation of the GDPR ("**2018 Law**"). Such specifications can be summarized as follows:

- Certain provisions of the GDPR do not apply to the processing of personal data carried out solely for **the purpose of journalism or academic, artistic, or literary expression**.
- The 2018 Law provides for specific provisions where personal data are processed **for scientific or historical research purposes, or for statistical purposes**. First, the controller may derogate from the rights of the data subject provided for in Articles 15, 16, 18 and 21 of the GDPR, insofar as those rights are likely to make it impossible or seriously hinder the achievement of the specific purposes, provided that appropriate measures, as referred to in Article 65 of the 2018 Law, are put in place. Second, the processing of special categories of personal data is not prohibited where the processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) of the GDPR, based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject, if the controller fulfils the conditions of Article 65 of the 2018 Law with respect to appropriate measures. Finally, Article 65 of the 2018 Law, provides that, having regard to the nature, scope, context and purposes of the processing and the risks to the rights and freedoms of natural persons, which vary in probability and seriousness, the controller of a processing operation carried out for scientific or historical research purposes, or for statistical purposes, must implement certain additional appropriate measures, that are listed in the same Article.
- **The processing of genetic data** for the purposes of exercising the data controller's own rights in terms of employment law and insurance is prohibited.
- The Luxembourg law introduces a new Article L. 261-1 in the Labour Code with respect to **the processing of personal data for monitoring purposes in the context of employment relationships**. According to the new provision, the employer must make sure to properly inform employees about the processing of their personal data for monitoring purposes, as well as to send the same information to the staff delegation, or in the absence thereof, directly to the Luxembourg Labour Inspectorate. The staff delegation or, if not applicable, the relevant employees, can within fifteen (15) days of receipt of such information submit a request for a prior opinion on the conformity of the proposed processing to the CNPD, which must issue its opinion within one month of the referral.

In addition to the above 2018 Law, there is in another law of 1 August 2018 on the protection of individuals with regard to the professing of personal data **in criminal and national security matters**. This second law of 1 August 2018 is a transposition into national law of the Directive (EU) 2016/680 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

DATA PROTECTION/PRIVACY, CONT'D

Moreover, the law of 30 May 2005, as amended, provides for specific rules with respect to the protection of individuals regarding the processing of their personal data **in the electronic telecommunications sector**. The main data protection provisions foreseen by such law are the following:

- Sending **unsolicited communications for direct marketing** purposes is only possible if the subscribers or users have given their prior consent. Where the controller, in the context of the sale of a product or service, has obtained from a customer its electronic contact details for the purpose of sending an electronic mail, the controller may use these electronic contact details for the purpose of direct marketing for similar products or services without the prior consent of the relevant customer, provided that the said customer is clearly and expressly given the right to object, free of charge and in a simple manner, to such use of the electronic contact details when they are collected and at the time of each message, in the event that the customer has not refused such use from the outset.
- Prior consent needs to be collected from users when putting in place **cookies** which are not essential (i.e. not necessary for the provision of the service), irrespective whether personal data is processed or not. In case the collection of cookies involves personal data of users, the GDPR must be respected, and the users must notably be properly informed by the controller about the processing of their personal data in such context.

Finally, the Luxembourg National Data Protection Commission (Commission Nationale pour la Protection des Données – CNPD) is the competent supervisory authority for national data protection matters. The CNPD may also issue guidelines and recommendations with respect to certain provisions or concepts foreseen in the GDPR, that are influential and give an idea on the interpretation of certain rules, even if they are not binding as such.

From a more general "data" perspective, attention should be brought to the Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 ("**Data Governance Act**") and the Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 ("**Data Act**").

The Data Governance Act establishes a framework for the re-use of data held by public sector bodies in the EU, which are protected due to commercial or statistical confidentiality, intellectual property rights of third parties or personal data protection. This regulation entered into force on 23 June 2022 and is applicable in all Member States since September 2023. At national level, the law of 19 December 2025[4] designates the competent bodies and authorities under the Data Governance Act and also establishes a new governmental administration called the « Commissariat du Gouvernement à la souveraineté des données ». In addition, the bill of law n°8395B relating to the implementation of the "once only" principle under the Data Governance Act and the application of certain provisions of the GDPR, is currently still under discussion.

The Data Act, which entered into force on 11 January 2024 and is applicable in all Member States since 12 September 2025, aims at ensuring fair access to and use of data, while ensuring their proper protection. No national bill of law relating to the Data Act has been published yet.

Finally, it is worth noting that the Luxembourg 1982 privacy law[5] prohibits listening to, recording, transmitting private conversations using any device, observing or capturing images of a person in a non-public place through any device and opening sealed message not addressed to oneself, accessing their contents through any means, or deleting such message. However, consent is presumed when acts occur during meetings held openly with participant's knowledge.

[4] Law of December 19, 2025 establishing the Government Commissioner for Data Sovereignty and designating the competent bodies and authorities provided for in Articles 7, 13, and 23 of Regulation (EU) 2022/868 of the European Parliament and of the Council of May 30, 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Regulation) and the single information point provided for in Article 8 of the aforementioned Regulation (EU) 2022/868 and amending the Law of August 1, 2018, on the organization of the National Commission for Data Protection and the general data protection regime.
[5] Loi du 11 août 1982 concernant la vie privée.

LUXEMBOURG

ARTIFICIAL INTELLIGENCE

The Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence (the "**AI Act**") entered into force on 1st August 2024 and most of its provisions will become directly applicable to all Member States twenty-four (24) months later. On 23 December 2024, the Luxembourg government submitted bill of law n°8476 implementing the AI Act (the "**Bill**"). The Bill is currently still under discussion.

The main objective of the Bill is to designate the national competent authorities responsible for the enforcement and oversight of the AI Act. The Bill designates existing Luxembourg authorities as the national competent authorities under the AI Act and these authorities have been assigned sector-specific responsibilities to ensure effective regulation and oversight.

According to the Bill:

1. The notifying authorities will be the Luxembourg Office of Accreditation and Surveillance (OLAS), the Luxembourg Agency for Medicines and Health products (ALMPS), and the Luxembourg State Data Protection Commissioner's Office (CGP);
2. The notified body will be the National Commission for Data Protection (CNPD); and
3. For the market surveillance authorities, the Bill considers that the CNPD should be the default market surveillance authority which will serve as primary point of contact in Luxembourg. The following other market surveillance authorities are designated as exceptions to the CNPD's jurisdiction: the Judicial Supervisory Authority (JSA), the Financial Sector Supervisory Authority (CSSF), the Supervisory Authority for the Insurance Sector (CAA), the Luxembourg Agency for Medicines and Health products (ALMPS), and the Luxembourg independent Audiovisual Authority (ALIA).

Moreover, the Bill lays down the sanctions that the market surveillance authorities can impose on operators not complying with applicable rules. In that respect, the Bill specifically mentions that sanctions must be effective, proportionate, and deterrent, considering the interests of small and medium-sized enterprises (SMEs) and startups.

In a nutshell, the following administrative fines can be imposed:

- Non-compliance with the prohibition of the AI practices referred to in Article 5 of the AI Act can lead to fines up to €35 million or 7% of the company's global turnover, whichever is higher;
- Non-compliance with other obligations related to high-risk AI systems can result in fines up to €15 million or 3% of the company's global turnover, whichever is higher;
- Providing inaccurate or misleading information to authorities can lead to fines up to €7.5 million or 1% of a company's global turnover, whichever is higher.

For SMEs and startups, fines are capped at the lower of the percentages or amounts mentioned in the above bullet points. Decisions made by national authorities are published on their websites, though confidentiality may be maintained for sensitive business information.

An appeal against decisions made by the competent authority may be filed with the administrative court, which will rule on the merits of the case.

Further, the Bill mandates the aforementioned Luxembourg market surveillance authorities to create AI regulatory sandboxes within their areas of oversight and to collaborate both among themselves and with other European market surveillance authorities, as applicable. These sandboxes will serve as innovation hubs, allowing businesses and developers to test AI systems in a controlled and supportive environment.

ARTIFICIAL INTELLIGENCE, CONT'D

In addition to the AI Act and the Bill, the more general restrictions, particularly under data protection and copyright rules, apply to artificial intelligence matters:

- Data protection: The principles of data protection must be observed in relation to the development, testing and operation of AI. In particular, the rules under Article 22 of the GDPR for automated individual decision-making need to be respected. This Article provides in its first paragraph for a general prohibition according to which "the data subject shall have the right to not be subject to a decision based **solely** on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her". This applies in case of decisions taken without any human involvement, for example with the help of an AI screening tool in the context of recruitment. A general regime foreseen under Article 22 applies in such a case.
- Copyright: According to the 2001 Law, authors' rights shall protect original literary and artistic works, whatever their genre and form or expression, including photographs, databases, and computer programs. Such creations can in principle not be reproduced and communicated to the public without having obtained the author's prior consent. This principle must thus be respected in presence of an AI system. With respect to AI, the aforementioned 2001 Law has been amended by the Digital Single Market Directive[6] to include a provision, according to which an exception applies to the general principle in case of reproductions and extractions of lawfully accessible works and other subject matters for the purposes of text and data mining unless the use of works and other subject matter referred to in that paragraph has been expressly reserved by their rightsholders in an appropriate manner, such as through machine-readable means in the case of content made publicly available online. These provisions are relevant for AI systems that proceed to so-called "web crawling" or "web scraping" by retrieving data from the Internet to train such data with the purposes of then creating output data.

Finally, it should be noted that, in November 2025, the European Commission unveiled the Digital Omnibus to simplify European Union's complex legislative framework on digital regulation[7]. The package includes proposed amendments to the AI Act, the Data Act, the GDPR but also the ePrivacy Directive[8] and the NIS 2 Directive[9]. The Digital Omnibus also aims at repealing the Data Governance Act, the Free Flow of Non-Personal Data Regulation[10], Platform to Business Regulation[11] and the Open Data Directive[12].

[7] Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC and (EU) 2022/ 2557 as regards the simplifications of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus), COM 837 final.
[8] Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201.
[9] Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) n° 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive), OJ L 333.
[10] Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European union, OJ L 303.
[11] Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business user of online intermediation services OJ L 186.
[12] Directive (EU) 2019/1024 on the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information, OJ 172.

LUXEMBOURG

EMPLOYEES/CONTRACTORS

General: Luxembourg's employment law framework is rather balance and flexible. What's more, in the country's fast-paced business environment, employment law is trending towards more innovative models and greater flexibility to meet employer and employee needs. Remote working, for example, has been given codified rules and made part of the "normal" Luxembourg business model, to retain and attract talent.

Luxembourg law also contains innovative and flexible solutions for multi-employer scenarios, like split payroll arrangements or global employment agreements (enabling several employers to hire one person, to divide up their total working time, and to have them relocate).

Collective employee relations are governed by a strong tradition of social peace and a dialogue-based philosophy, encouraging social partners like unions to find mutually acceptable solutions to HR issues, instead of seeking to impose obligations.

In addition, employment costs are relatively low in Luxembourg compared to neighbouring and other highly developed countries, while staff possess a high level of know-how and skills. Social security contribution borne by the employer, for example, are among the lowest in Western Europe, at currently around 13.9%.

Due to the high levels of business immigration to Luxembourg, immigration laws are designed to attract foreign talent, with a specific tax regime for highly skilled expatriates recruited from abroad. The immigration authorities also fast-track highly skilled employees without EU citizenship who intend to relocate to Luxembourg.

Local employment authorities are generally open to discussion and solution-oriented, making HR management easier than in many other countries in Western Europe.

Hiring: There are a certain number of requirements for employers to respect at the hiring stage. Employers must provide employees with an employment contract no later than the first day of employment and register them with the social security authority. The contract must set out the basic terms and conditions of employment including identities of the parties, starting date, job title, place of work, wages, hours of work, holiday entitlement, notice, etc. Where collective bargaining agreements exist, their terms may be incorporated into the employment contract.

Contrary to other countries, there is in Luxembourg no automatic transfer of authors' and neighbouring rights created by an employee in the context of its employment to the employer. The transfer of such intellectual property rights must therefore be explicitly foreseen in the employment agreement or any other legal act between the parties. Such contractual provisions should be as specific as possible, as courts will interpret the grant of rights in a restrictive manner. If such transfer is not contractually foreseen, the employer may only use authors' rights and neighbouring rights after having received the explicit consent of the owner of the relevant rights (i.e. the employee). However, it should be noted that the 2001 Law foresees an exception to the above by stating that where a computer program is created by an employee in the performance of his duties or on the instructions of his employer, the employer alone shall be entitled to exercise all economic rights (excluding moral rights) in the computer program so created, unless otherwise provided by the employment contract.

Termination: According to the Labour Code, an employment contract can be terminated by both parties. Different rules apply to the termination of open-ended and fixed-term employment contracts:

- open-ended employment contracts can be terminated either unilaterally by both parties during the trial period (if any), by mutual agreement, by resignation of the employee, or by dismissal (with notice or with immediate effect).
- fixed-term employment contracts cannot be unilaterally terminated before their term has expired, except during the trial period (if any), in cases of gross misconduct, or by mutual agreement between the parties.

Dismissed employees may be entitled to receive statutory severance indemnity depending on their seniority. Some employees are, to some extent, protected against dismissal (sick employees, employees on maternity or parental leave, staff delegate, etc.).

LUXEMBOURG

CONSUMER PROTECTION

Luxembourg consumer law is mainly regulated by the general rules of the Civil code as well as the Consumer code. However, there are additional sets of rules which aim to protect consumers, such as (i) the law of 23 December 2016 on promotional and pavement sales and misleading and comparative advertising, as amended, (ii) the law of 21 April 1989 on civil liability for defective products, as amended, (iii) the law of 20 May 2005 on specific provisions for the protection of individuals with regard to the processing of personal data in the electronic communications sector, as amended, as well as (iv) the law of 14 August 2000 on e-commerce, as amended. These national consumer protection rules apply to all activities targeting Luxembourg consumers, irrespective of the place of establishment of the trader or commercial entity.

Consumer protection rules are of public order in Luxembourg, which means that they cannot contractually or otherwise be derogated from.

Some of these rules are especially relevant in case of distance selling contracts, such as the law of 14 August 2000 on e-commerce, as amended, as well as the provisions of the law of 30 May 2005 on specific provisions for the protection of individuals with regard to the processing of personal data in the electronic communications sector, as amended.

The core provisions are laid down in the Consumer code. This code notably provides for an important information obligation to consumers as well as a list of unfair commercial practices that are prohibited under certain circumstances. It also lists contractual clauses which are qualified as abusive when included in an agreement with a consumer. Moreover, the Consumer code includes provisions detailing the regime around guarantees applicable to consumer contracts, as well as with respect to the rights of consumers in their relationship with professionals, such as the right to withdrawal within fourteen (14) days without motive and without penalty. This right can only be limited in specific circumstances and if consumers are not sufficiently informed about their right of withdrawal as foreseen under the Consumer code, this right is automatically extended for additional twelve (12) months.

Finally, the Consumer code also provides for different sets of rules applying to specific types of contracts, such as distance or off-site contracts, or consumer credit contracts.

Since December 2022, Luxembourg authorities are entitled to impose fines up to 4% of the company's annual turnover or, where information on the annual turnover is not available, up to two million euros in case of non-compliance with the Consumer code, including where abusive clauses are used in terms and conditions.

In Luxembourg, there is a consumer protection association, which is the Luxembourg Union for Consumers (Union Luxembourgeoise des Consommateurs - ULC). This is a non-profit organization, which aims to protect, defend, inform, and educate consumers in Luxembourg. As a representative organisation, it also represents consumers in dealings with public and political bodies.

In addition, the European Center for consumers in Luxembourg (Centre européen des consommateurs Luxembourg) offers free of charge assistance in European consumer law matters. Further, certain mediators, such as the Luxembourg Institute for Regulation (Institut Luxembourgeois de Régulation – ILR) or the Consumer Ombudsman (Médiateur de la consommation) are supporting consumers in Luxembourg.

In practice, the ULC is the most active organism, with many members and handling numerous files each year.

The bill of law n°8648 transposing the directive (EU) 2024/825 as regards empowering consumers for the green transition through better protection against unfair practices and through better information and modifying the Luxembourg Consumer code has been published in October 2025 and is scheduled to enter into force on 27 September 2026. The bill aims at implementing the two principal objectives of the directive: (i) strengthening consumer information regarding product guarantees and warranties, products' life cycles and their reparability; and (ii) combatting unfair commercial practices, particularly those relating to the premature obsolescence of goods, misleading environmental claims ('greenwashing'), and misleading information concerning the social characteristics of products or companies.Finally, the law of 20 November 2025 introducing class actions into Luxembourg consumer law, following the unanimous adoption of the bill of law n°7650, entered into force on 25 November 2025. This law, which was under discussion for over five years, is a major step forward in strengthening consumer protection at national level.

TERMS OF SERVICE

First, the general terms and conditions of a contract pre-established by one of the parties are only binding on the other party if the latter was in a position to be aware of them when the contract was signed and if, depending on the circumstances, it must be considered to have accepted them.[19] This applies to all general terms and conditions, online and offline.

With respect to the content of the terms of services, information on the features of the product or service, as well as with respect to pricing, if applicable, must be included. Moreover, the duration of the contractual arrangement, as well as the conditions for termination must be specified. A governing law and competent jurisdiction clause should also be included in every contract.

To be enforceable, a contract of course needs to be properly signed by all parties and, if applicable, provisions with respect to electronic signatures must be fulfilled.

In a B2B context, no specific additional provisions need to be included in online terms of service to be enforceable.

In a B2C context, all information listed in Article L. 222-3 of the Consumer code needs to be included in distance contracts, which include notably any information on the right of withdrawal of a consumer.

Regarding provisions that should not be included, Article L. 211-3 of the Consumer code provides for a list of clauses considered as abusive in contracts with consumers, such as provisions excluding or limiting the legal warranty in the event of latent defect or lack of conformity, or by which the professional reserves the right to unilaterally modify or terminate the contract without any specific and valid reason stipulated in the contract. However, no specific additional clauses that would be invalid in distance contracts concluded online are foreseen.

Beyond the mandatory clauses referred to above, it is customary to include in the terms of services, whether B2B or B2C, provisions regarding liability, data protection, confidentiality, intellectual property, governing law and competent jurisdiction, etc.

[19] Article 1135-1 of the Civil code

LUXEMBOURG

TAX/FUNDING

As mentioned in section 2, Luxembourg start-ups are typically organized in the legal corporate form (generally SARL). Therefore, we limit our tax overview on the investment into start-ups organized as a Luxembourg corporation.

Tax

Corporate Income Tax: Luxembourg companies are subject to corporate income tax (CIT) and municipal business tax (MBT). The maximum aggregate CIT and MBT rate amounts to 23.87% in 2026 for companies located in Luxembourg City. Dividend and liquidation proceeds received by a Luxembourg company as well as capital gains realised by a Luxembourg company on the disposal of shares are exempt from corporate taxes under the Luxembourg participation exemption regime if certain conditions are met.

Net wealth tax: The worldwide net worth of resident companies, including the value of domestic and foreign patents, is subject to a 0.5% net wealth tax. A reduced rate of 0.05% applies for the portion of the net worth exceeding EUR 500 million. A minimum net worth tax applies and is determined on the basis of the company's total balance sheet (i.e. EUR 535 for a total balance sheet ≤ EUR 350,000; EUR 1,605 for a total balance sheet > EUR 350,000 and ≤ EUR 2,000,000 and EUR 4,815 for a total balance sheet > EUR 2,000,000).

Withholding Tax on Dividends: Dividends paid by a Luxembourg corporation to its shareholders are subject to withholding tax (WHT) at a rate of 15%, unless exempt by application of the dividend WHT exemption regime, or mitigated by application of a tax treaty. The WHT must be paid by the paying company to the tax authorities.

Where an exemption or a reduced rate of withholding tax applies under a tax treaty, the resident payer may apply the exemption or reduced rate at source, provided that the appropriate residence certificate has been presented to the payer. Otherwise, a refund must be claimed afterwards. The applicable procedures vary from treaty to treaty. For each treaty there are forms which describe the procedure. Immediate application of the exemption is also allowed if the dividends qualify under the domestic withholding tax exemption regime.

Withholding Tax on Interest: Interest payments are generally not subject to WHT (save for interest on profit-sharing bonds).

Withholding Tax on Royalties: Royalties payments are not subject to withholding tax.

Capital Gains Tax: Capital gains on the sale of shares held in a Luxembourg company are generally not subject to tax in Luxembourg, except in very limited cases (where treaty protection could nevertheless apply).

VAT: Luxembourg VAT is charged on supplies of goods and services as well as on intra-community acquisitions of goods carried out in Luxembourg by a taxable person in the framework of its business and on imports from third countries (i.e. from non-EU Member States). The standard rate is 17%. Reduced rates (14% / 8% / 3%) for specific goods and services also apply. A taxable person is whoever carries on independently and habitually an economic activity. Luxembourg allows input VAT recovery on eligible expenses. There are annual and in addition monthly or quarterly (depending on turnover) VAT filing obligations.

IP regime: The IP Regime consists in an 80% exemption of the net profits related to IP assets from corporate taxes and an exemption from net worth tax (for the entire value of the IP assets). Patents and software protected by copyrights are eligible for the IP regime. However, marketing assets such as trademarks, domain names, designs and models are excluded. The IP regime implements the nexus approach recommended by the OECD BEPS principles. Only income directly related to research and development costs is exempted. In addition, IP assets must have been developed or improved by the company which asks for the application of the IP regime.

TAX/FUNDING

Tax, CONT'D

Investment tax credit (ITC): ITCs are granted upon request to Luxembourg companies for qualifying investments physically used in a country of the EEA. Firstly, an ITC for eligible global investments made during the financial year may be granted. Eligible investments include investments in inter alia tangible depreciable property other than buildings, livestock, and mineral and fossil deposits, as well as software, provided it is not acquired from an affiliate. Certain assets are excluded, such as assets depreciable over less than 3 years. This ITC is equal to 12% (14% for certain environmentally friendly investments) and may be deducted from the CIT due for the tax year during which the financial year in which the investment is made ends. If there is insufficient CIT, the remaining ITC may be carried forward and deducted from the CIT for the 10 subsequent tax years. Secondly, an ITC for investments in the digital transformation or the ecological and energy transition of a business may be granted where the investment and expenses are confirmed in a certificate issued by the Minister of the Economy. The ITC is 18%, except for depreciable tangible assets, for which it is 6%. It applies for instance to investments in depreciable tangible assets other than buildings, livestock, and mineral and fossil deposits, as well as investments in software and patents, except where acquired from an affiliate.

Tax credit for investment in start-ups: Luxembourg has introduced a new tax credit for start-up investments, effective from the 2026 tax year. Luxembourg resident individuals and non-residents assimilated to resident taxpayers receive a 20% income tax credit on cash investments in eligible start-up shares, capped at EUR 100,000 annually per taxpayer. Any credit exceeding this cap is definitively lost, while unused credit within the cap may be carried forward to the next tax year but is non-refundable. Investments must be held for at least three years, with a minimum EUR 10,000 investment required. Eligible start-ups must be Luxembourg-resident companies or EEA-resident companies that are fully taxable and have a Luxembourg permanent establishment, less than five years old, employing fewer than 50 people, with turnover or balance sheet under EUR 10 million. Crucially, they must be innovative, having at least two full-time employees and dedicating a minimum 15% of operating expenses to R&D. Investment limits include a maximum 30% ownership stake and a EUR 1.5 million cumulative investment threshold per start-up. Excluded entities include law firms, accounting firms, real estate companies, SICARs, listed entities, companies resulting from mergers or demergers, dividend-distributing or capital-reducing companies (other than to offset losses), companies in difficulty, and companies subject to EU State aid recovery decisions. Investors cannot be employees or founders of the start-up, nor treat investments as business assets.

Funding

Luxembourg offers a variety of funding and incentive programs to support start-ups across different stages of development. Examples:

Fit 4 Start Program: Managed by Luxinnovation, this accelerator provides early-stage start-ups with intensive coaching, mentoring, equity-free funding of up to €150,000, and access to co-working spaces. The program targets digital and data-driven ventures, including dedicated tracks for healthtech and space start-ups.

Young Innovative Enterprise Funding: Offered by the Ministry of the Economy, this matching aid supports innovative companies less than five years old that have recently secured new capital. The funding can cover up to 70% of the company's total financial needs, with a maximum grant of €800,000. The aim is to facilitate the growth phase by enhancing product development, marketing, sales activities, and international expansion.

Financial Aid for Young Innovative Enterprises: This aid is available to young innovative enterprises demonstrating potential for developing new or substantially improved products, services, or processes. The financial aid serves to cover part of the eligible costs, with the cap varying depending on whether the business is located in an assisted area or not.

Investment Aid for SMEs: Aimed at small and medium-sized enterprises, this aid supports investment projects that promote the creation, development, diversification, or fundamental change of the production process. The aid can cover investments in tangible and intangible assets related to these objectives.

Digital Tech Fund: Established as a public-private partnership, this €20 million seed fund supports ICT start-ups in areas such as cybersecurity, fintech, big data, digital health, and more. The fund aims to strengthen Luxembourg's digital ecosystem by providing early-stage financing to promising innovative companies.

WHAT ELSE?

Obligation do hold appropriate authorizations/business licenses: According to the law of 2 September 2011 on business licenses, as amended ("**2011 Law**"), a business licence is required when having a commercial, craft or industrial activity, as well as certain liberal professions foreseen by the Law, in the Grand Duchy of Luxembourg. It is in such a case mandatory to hold a business licence, unless one of the three following exceptions applies: (i) the services are rendered without monetary compensation/for free; or (ii) the services are only provided to entities that are ultimately controlled by the same entity (>50% of its capital); or (iii) in case of an entity established in a country of the EU, EEA or the Helvetic Confederation, which furnishes services on the territory of the Grand Duchy of Luxembourg only on an occasional and temporary basis. For the Ministry to grant a business license, certain requirements need to be fulfilled by the relevant foreign entity. The entity must have a fixed place of establishment in Luxembourg (a domiciliation is expressly excluded by law) and a natural person will need to be identified and appointed as in charge of the daily management of the relevant company and hold the business license in such capacity.

Certain entities active in regulated sectors (lawyers, auditors, notaries, financial entities, etc.) require an authorization from the competent authority.

All business licenses and authorisations must be obtained prior to the commencement of the relevant activities.

VAT number: Depending on the exact activities, registration with the Luxembourg VAT is required.[20]

Mandatory affiliation to the Chamber of Commerce: Membership of the Chamber of Commerce (CC) in Luxembourg is compulsory for businesses and individuals who are subject to tax and is generally calculated at 2 ‰ (two per thousand) of the profit from the penultimate financial year. The minimum fees are €14 for individuals and €70 to €140 for companies (S.à r.l./S.A.).

Mandatory information to include on a website: The website of a Luxembourg company must display at least the following information:

- Company or business name:
- Legal form of the Company (e.g. "SARL" or "société à responsabilité limitée");
- Indication of the registered office of the company;
- Contact details such as telephone number and/or an e-mail address;
- "Registre de Commerce et des Sociétés de Luxembourg" with the company's registration number;
- **If applicable, VAT number; and**
- **If applicable, number of the business license of the company.**

Language requirements: To be valid, a contract needs to be concluded in a language that is comprehensible to both contracting parties. The official languages in Luxembourg are Luxembourgish, French and German. In a B2B context, English is generally accepted, however, for contracts with consumers, a translation into at least one of the Luxembourg official languages is strongly recommended. The choice of language should be appropriate to the targeted consumers. If language requirements are not complied with, it could be considered that the Luxembourg party has not validly consented to the contract and that one of the essential conditions for the validity of a contract has thus not been fulfilled.

Late payment interests: Late payment interests are governed by the law of 18 April 2004 on payment periods and late payment interest, as amended ("**2004 Law**"):

- In a B2B context, the creditor is entitled to claim interest for late payment without the need for a reminder, if (i) the creditor has fulfilled his contractual and legal obligations and (ii) the creditor has not received the amount due on the due date, unless the debtor is not responsible for the delay. Where interest for late payment is payable in commercial transactions, the creditor shall also be entitled to obtain from the debtor payment of a lump sum of forty (40) euros to cover recovery costs.
- In a B2C relationship, receivables shall automatically bear interest at the statutory interest rate from the end of the third month following receipt of the goods, completion of the work or provision of the services. This interest is only payable if the trader has, within one month of taking delivery of the goods, completing the work or providing the services, sent the consumer the relevant invoice. Moreover, the invoice must state that the professional intends to benefit from late payment interests as foreseen by the 2004 Law.

Accessibility: The law of 8 March 2023 transposing the directive (EU) 2019/882 on the accessibility requirements for products and services (EU Accessibility Act) in Luxembourg entered into force on 28 June 2025. Its primary objective is to enhance accessibility of products and services for all citizens particularly for older people and persons suffering from disabilities.





MACAU

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MACAU

LEGAL FOUNDATIONS

Macau follows the civil law system in the Portuguese civil law tradition. Its main source of law is from statutes and legal codes, with a residual role to legal doctrine and case law.

Macau is a special administrative region (SAR) of the People's Republic of China since December 1999. Under the Basic Law (Macau SAR's constitutional law), Macau is guaranteed a high degree of autonomy in all matters except foreign and defence affairs for the 50 years upon the sovereignty transfer, under the 'one country, two systems' policy - which means that Macau has its own legal, tax and economic system, and it manages its own borders.

The Macau SAR exercises a high degree of autonomy in accordance with the provisions of the said Basic Law, and enjoys executive, legislative and independent judicial powers, including the exercise of final adjudication on all civil and criminal matters.

There are three tiers of judiciary, with the highest being the Macau Court of Final Appeal. There are no other jurisdictional layers in Macau.

CORPORATE STRUCTURES

In Macau, there are two types of companies commonly used:

- limited liability company by shares and
- limited liability company by quotas.

A limited liability company by shares must have a minimum share capital of MOP1,000,000 and is subject to more complex governance requirements (namely to have company secretary, supervisory board and board of directors) and is used for large enterprises with complex shareholder relationships or in regulated industries where this type of vehicle is required.

A limited liability company by quotas must have a minimum share capital of MOP25,000, and is generally subject to less complex governance requirements. “Quotas” are units representative of share capital which are registered with the Macau Companies Registry. Transfer of quotas is mandatory to be registered with the Companies Registry and the ownership of the company’s share capital is disclosable to the public.

CORPORATE STRUCTURES, CONT'D

This is the type of corporate vehicle used overwhelmingly in Macau, especially for small or medium-sized businesses. There are no complex governance requirements – having single shareholder and one appointed director is enough. Furthermore, there is no minimum local director requirement or restrictions on director nationality, which mean that citizens from any country may be appointed as directors in Macau companies. Directors of the company do not need to be physically based in Macau.

Differently from mainland China, in Macau there are no foreign investment restrictions, which means that citizens or companies from any country may incorporate companies locally. As such, Macau incorporated companies can be 100% owned by foreign companies or individuals.

Incorporation of a limited liability company in Macau is a low-cost, easy and straightforward option, and does not require the shareholders to attend physically in Macau.

ENTERING THE COUNTRY

Also differently from mainland China, there are no restrictions to foreign investment into Macau –citizens or companies from any country may incorporate Macau companies, which can be 100% owned by foreign companies or individuals.

Also, there is no requirement of local director or restrictions on director nationality, which means that citizens from any country may be appointed as directors in Macau companies.

Similarly, there are no limitations to repatriation of capital or profits for Macau companies, meaning any profit or dividends can be distributed to overseas shareholders and transferred abroad.

INTELLECTUAL PROPERTY

The main types of IP rights that can be protected in Macau are trademarks, patents, industrial designs and copyright.

Trademarks

In Macau a trademark may be registered if it is a sign or group of signs represented in a special manner, capable of distinguishing the products or services of one company from those of other companies. The registrable formats of trademarks include words (including personal names), drawings, letters, numerals, sounds, shapes (3D marks) and colour combinations or patterns.

Applicants can refer to the "Nice Classification of Goods and Services" issued by the World Intellectual Property Organization (WIPO) to classify the goods and services for their trademarks. Macau is still enforcing the 9th Edition of Nice Classification of Goods and Services (despite the 13th Edition having been adopted globally).

Trademark registration usually takes about eight to ten months, assuming that all requirements are met from the onset and there is no opposition from third parties. In case an opposition is filed, the IP Office can take over 1 year or more to make a decision.

INTELLECTUAL PROPERTY, CONT'D

Patents

Macau has a patent system similar to the one of Hong Kong, with a separate registration which relies on the examination made in mainland China by the examiners of the Chinese Patent Office (SIPO) but applying the Macau rules on patents requirements and registrability.

For applications filed outside Macau (in an OMC or Paris Convention Member State) but not yet granted, a new registration will have to be applied in Macau with priority being claimed (within one year from the original filing).

The Patent Cooperation Treaty is not yet applicable in Macau, but there is an option to extend patents to Macau. Chinese patents (as granted in mainland China) can be extended to Macau within three months from the date of publication of the granting decision in China.

Designs

The design right is described under Macau law as designs and models (in Chinese: "設計及新型"), being its use on the rise for the last 10 years. It is an affordable method to obtain protection and, differently from patents, subject to examination in Macau only.

The information necessary includes (i) title or short title designating the industrial model or design intended or its purpose, as appropriate; (ii) description of the innovative characteristic attributed to the subject matter containing a detailed explanation of the geometric or ornamental aspect of the subject matter; (iii) name and country of residence of the creator; (iv) drawings or photographs of the subject matter and (v) priority right claim, if any.

After submission of the application, the Intellectual Property Department (IPD) will proceed with a formal examination of the applications documents within one month. After 12 months from application date (or from the priority date, if any) publication will be made in the Macau Official Gazette.

In 30 (thirty) months counting from application date a request for an examination report must be submitted to IPD. Requests for earlier examination are also admitted. Once granted, registration is valid for 5 years, renewable for identical periods up to 25 years.

For more detail of each of the above IP rights and its registration procedure, please check to the website of the Macau Economic and Technological Development Bureau: https://www.dsedt.gov.mo/en_US/web/public/pg_ip?_refresh=true.

Copyrights

Unlike other intellectual property rights, Copyright exists from the moment a certain work is disclosed publicly and does not require registration to be protected. Such automatic protection is limited in time – in Macau, the term is "life of the author + 50 years".

Note that Macau is not a party to either the Madrid Agreement or the Madrid Protocol. As such, International Registrations (IRs) cannot be extended to Macau.

MACAU

DATA PROTECTION/PRIVACY

In Macau, the general legal regime covering data protection/privacy is Law no. no. 8/2005 (the "Personal Data Protection Act" or the "**PDPA**")

The PDPA contains provisions on:

1. General definitions and data privacy principles;
2. Criteria for making data processing legitimate (consent, performance of contracts, compliance with legal obligations, etc.);
3. Data Subject's rights (right to information, right of access, right to object against direct marketing or any other form of commercial research, right not to be subject to automated individual decisions, right to compensation);
4. Data security;
5. Obligations of data processors (if any);
6. Transfer of personal data outside of Macau;
7. Notification and authorization requirements – the data controller is required to notify the Macau Personal Data Protection Bureau ("PDPB") of the data processing activities within 8 days counting from the date of commencement of processing activities. Data controller should seek the PDPB's authorization in certain cases prior to the processing of data (cases of processing of sensitive data, processing of credit and solvency data, combination of data, use of personal data for different purposes from those that dictated the collection of data); and
8. Penalties.

Macau's legal framework is essentially drawn from that of Portuguese Law No. 68/98 on the Protection of Personal Data, and its main purpose is to ensure that the processing of personal data is carried out with informed user consent and with respect of personal privacy and dignity.

ARTIFICIAL INTELLIGENCE

There is not yet any specific regime for AI regulation in Macau and we have no knowledge of any legislative initiative or proposal from the Macau Government on this subject. The Macau Government has taken a passive approach and did not make any policy announcements in relation to AI.

DATA PROTECTION/PRIVACY

Firstly, as a general rule, only Macau residents are allowed to work in Macau. However, in cases of justified need, non-resident workers can obtain work permits, issued by the Macau authorities, as per the following categories:

- Skilled work permits: issued for skilled workers with expertise in a specific area; and
- Non-skilled work permits: issued for non-resident workers intending to carry out general or unspecified labour (e.g. housemaids, construction work, etc.).

The issuance of work permits is subject to the verification of a number of requirements and submission of a number of documents to the Macau authorities.

Exceptionally, non-Macau residents may work in Macau as "consultants/technicians", who are deployed by their overseas employers, to deliver restricted and occasional "consultancy" or "technical supervision" services to a Macau entity. This exception is regulated under Administrative Regulations no. 17/2004 ("Regulation on Prohibition of Illegal Work").

In general, employment contracts in Macau follow the principle of freedom of contract. Employment contracts are not subject to any special legal form and can be established verbally or in writing. The parties can enter into open contracts and term contracts (fixed term and variable term). For fixed term contracts, the parties do not stipulate end date of employment, which shall only be terminated under the reasons specified in the law and/or contract. For variable term contracts, the parties either agree on a fixed end date or refer to a foreseeable event as the end date (e.g. completion of a project).

Macau labour law is flexible regarding employment conditions, allowing for immediate termination with due cause without disciplinary procedures and termination without due cause with minimal prior notices of 7 and 15 days, respectively, for employee and employer.

CONSUMER PROTECTION

Aside from general principles of civil and contractual law contained in our civil and commercial codes, the main law governing consumer protection is Law no. 9/2021 ("**Consumer Protection Law**"), which came into force to modernize the previous regime under law no. 12/88/M.

The following are a few of the key protections for consumers under the Consumer Protection Law:

- The Consumer has the right to be duly informed on the product or service that is being provided, so as to make proper and conscious decisions on whether to buy or request a certain service. Moreover, some of these informations should be shown in both Chinese and Portuguese, or in both Chinese and English.
- The Consumer has the right to be provided goods and services that will not put the consumer's health and safety at risk.
- The Consumer has the right to have quality goods and services.
- The Consumer should not be compelled to pay for goods or services that were not expressly requested by the Consumer.
- The Consumer has the right to be protected against high or unjustifiable price fluctuations.
- In case of a defective product, the Consumer has the alternative rights to have the product repaired, replaced, a price reduction or cancel the purchase (return the product and have the money back).
- The Consumer has the right to claim compensation for damages caused to him/her.

The Consumer Protection Law exemplifies misleading or aggressive commercial practices, which are strictly prohibited. These practices are reproached given that the same affect the Consumer's decision making when buying a product or requesting a service. For example, promoting the sale of a certain product, in a training or educational session may be deemed as a misleading commercial practice. Furthermore, making persistent and unsolicited contacts with the Consumer (by any means), with the intention of selling a certain product or service, may be considered as an aggressive commercial practice.

The Consumer Protection Law introduces the concept of remote contracts, which cover e-commerce. For these contracts, the Law foresees the obligation for the seller to disclose a set of pre-contractual information.

The body tasked with investigating and enforcing against breaches of the law - The Consumer Council - supervises and imposes sanctions to merchants who breach the provisions of the Law.

The Consumer Protection Law foresees different sanctions depending on the type of offence to the Law, with fines ranging from MOP 2,000 to MOP 60,000. In addition, the offender may also be punished with ancillary penalties which may include closure of business.

MACAU

TERMS OF SERVICE

Aside from general principles of civil and contractual law contained in Macau Civil and Commercial Codes, the main legislation to consider with applicability to TOS clauses is the law governing general clauses (Law no. 17/92/M), which sets forth a specific regulation created to protect consumers/costumers against abusive or bad faith provisions (the "**GCC Law**")

General Contractual Clauses are legally defined as pre-drafted clauses by one party to be used as a standard template to its contracts and which the counterparties adhere to as a whole, without the possibility of negotiation or amendment to the terms of said clauses.

The GCC Law sets out that the general clauses are only effective and enforceable if materially communicated to the counterparty and if properly submitted, and any terms and conditions which are not expressly included in the relevant contract (e.g., which are incorporated by reference only) shall be deemed not effective and unenforceable. The communication must be done properly and with prior notice, and to ensure that the recipient has sufficient time to consider all aspects of the General Contractual Clauses prior to accepting them.

In addition, the proponent of the General Contractual Clauses has the duty to clarify the counterparty on the contents and extent of the clauses which terms are not clear.

Under the GCC Law, clauses that are contrary to the principles of good faith and which may lead to a damage to the recipient shall be forbidden.

In case of doubt, the GCC Law sets out a criteria for the determination of the concept of inappropriate damage by establishing that such damage will take place when the relevant clause (i) is incompatible with the basic principles of legal regulation from which it is different; or (ii) when the clause limits rights and duties arising from the essential nature of the contract.

Under the GCC Law, namely Articles 12 and 13, there a number of specified clauses which are absolutely forbidden (i.e., they are forbidden regardless of the overall context of the contract and/or any clauses thereof) and relatively forbidden clauses (i.e., clauses which may or may not be forbidden, depending on the overall context of the contract).

TAX/FUNDING

Macau has an extremely attractive and simplified tax system – designed to be attractive to foreign investors (, as tax coffers are essentially supported by the gaming industry).

Corporate (profits) tax rate is between 3 – 12%.

Tax on professional income between 7% - 12% (for higher earning threshold and with significant exceptions).

No other significant taxes aside from these two. There is no VAT and no import/export tax on general goods.

In practice, this means that most companies in Macau pay little to no tax (unless there are large profits).

In terms of funding in Macau, the Macau government offers various grants and subsidies through organizations like the Macao Trade and Investment Promotion Institute (IPIM) and the Economic Bureau. These can support startup development and innovation.

TAX/FUNDING

Other than that, options for local dedicated venture capital firms or investment funds to provide liquidity for growth stage startups are limited in Macau. Early-stage startups often rely on government support or high net worth individuals/business angels – often based in Hong Kong or in mainland China - to provide seed funding.

The following links provide further insight to support for startups available in Macau.

The Macao Trade and Investment Promotion Institute provides various resources, programs, and support for businesses, including information about grants and subsidies: https://www.ipim.gov.mo/en/.

The Macau Science and Technology Development Fund offers support for technology-related projects and startups through various funding initiatives: https://www.fdct.gov.mo/en/index.html.

The Macao Youth Entrepreneurship Incubation Centre focuses on supporting young entrepreneurs with resources and potential funding: https://myeic.com.mo/en/.

WHAT ELSE?

Incorporating a limited liability company in Macau is very straightforward – there are minimal paperwork and legal requirements.

As mentioned above, there is no restriction on source of ownership or funding (no local ownership or partnership requirements).

Moreover, there are no regulatory authorizations required to carry out most business in Macau (except for specific regulated industries).

Additionally, on the operational side there are no minimal operational requirements, namely it is not necessary to handle annual tax filings and keep corporate books and there are no requirements for physical office space or actual operations.



MALAYSIA

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MALAYSIA

LEGAL FOUNDATIONS

Malaysia follows a **common law system** and practices the concept of constitutional supremacy under which the Malaysian Federal Constitution is the supreme law of the land. The **Federal Constitution** sets out the roles, limitations and conferment of powers on the bodies / persons in order to facilitate the orderly and efficacious governance of the country i.e. on the Sovereign of Malaysia, Legislature (Parliament of Malaysia), Executive (Prime Minister and his cabinet) and the Judiciary (High Courts & Subordinate Courts of Malaysia).

In brief, the Malaysian judicial system is structured to include **superior courts** (consisting of the Federal Court, the Court of Appeal and two High Courts) and **subordinate courts** (consisting of Session Courts and Magistrate Courts, which respectively handle criminal and civil claims up to a certain monetary threshold). The Federal Court is Malaysia's apex court while the main function of the Court of Appeal is to hear appeals of decisions from the High Courts, which in turn possess general jurisdiction to hear criminal and civil cases, as well as hear appeals of a civil or criminal nature from the lower courts.

Malaysia also operates the **Industrial Court** system, which exists as a separate system from the mainstream judicial institutions. It is a quasi-judicial tribunal created by the Industrial Relations Act 1967 ("IRA") and deals with employment and industrial disputes in the private sector.

Malaysia also has Shariah laws which are only applicable to Muslims. Offences against Shariah laws are tried by the **Shariah courts** which are set up by the respective State governments.

CORPORATE STRUCTURES

In general, persons who wish to carry on business in Malaysia must register under one of the following legislation:

- Registration of Businesses Act 1956 ("**ROBA 1956**"). Businesses (sole proprietorships and partnerships) must be registered with the Registrar of Businesses.
- Companies Act 2016 ("**CA 2016**"). Companies must be registered with the Registrar of Companies ("**ROC**").
- Limited Liability Partnerships Act 2012. Limited liability partnerships must be registered with the Registrar of Limited Liability Partnerships.

CORPORATE STRUCTURES, CONT'D

Malaysian law provides the following forms of structures, which startups may wish to note:

Sole proprietorships

A sole proprietorship is the simplest form of business ownership. It is formed essentially for businesses comprised of one person (being the sole proprietor). The sole proprietor is entitled to all profits of the business and is personally liable, without limit, for all debts and obligations of the business.

Limited liability partnerships ("LLP")

An LLP combines the characteristics of a private company and a conventional partnership and is regulated under the Limited Liability Partnerships Act 2012. Two or more individuals or bodies corporate may form an LLP for any lawful business in accordance with the terms of the LLP agreement executed amongst them. Given that the liability of the partners of an LLP is limited, the LLP business vehicle helps start-ups and small and medium enterprises grow their businesses without having to worry about their personal liabilities and personal assets.

Locally incorporated company under the CA 2016

A person may incorporate three types of companies under the CA 2016 i.e. a company limited by shares, a company limited by guarantee and an unlimited company. A company limited by shares may be a private limited company or a public limited company. In a company limited by shares, the personal liability of its members is limited to the amount if any, unpaid on their shares. A private company limited by shares is a very common corporate structure.

A company limited by guarantee is typically used for non-profit purposes while unlimited companies are companies where the members' liability for its debts is unlimited. As such, we expect these types of structures to typically be less popular and / or applicable for startups compared to a company limited by shares.

Branch of a foreign company under the CA 2016

Under the CA 2016, a foreign company shall not carry on business in Malaysia unless it is registered with the ROC as a foreign company. Foreign companies intending to carry on business in Malaysia may either incorporate a subsidiary or register a branch under the CA 2016 (subject to any regulatory requirements mandating the incorporation of a local subsidiary e.g. under licence application requirements). The branch of a foreign company does not have separate legal personality and is considered an extension of the foreign company.

MALAYSIA

ENTERING THE COUNTRY

There is no overarching legislation which imposes foreign investment rules/restrictions on startups who wish to do business in Malaysia. In general, there are no restrictions on entry of startups, as the Malaysian Government's policy stance towards startup investment in Malaysia has been a welcoming one. The Ministry of Science, Technology and Innovation ("**MOSTI**") released the Malaysia Startup Ecosystem Roadmap (SUPER) 2021-2030 which sets out a roadmap and action plan aimed at transforming Malaysia into a top 20 global startup ecosystem by 2030.

In recent years, certain economic sectors / sub-sectors have been liberalised to allow up to 100% foreign equity participation. These include, for example, transport services, health and social services, and computer and related services. That said, Malaysia continues to apply local equity participation requirements in various economic sectors and activities which may impact startups doing business in Malaysia depending on the economic sector in which the startup operates in e.g. the licence required for providing telecommunications services, e.g. network service activities under the Communications and Multimedia Act 1998 ("**CMA**"), are likely to be subject to foreign equity restrictions.

Other foreign investment restrictions take the form of local equity participation requirements e.g. requirements for an entity to possess a prescribed percentage of shares held by Malaysian citizens or even Bumiputera (i.e. indigenous Malay) citizens. The requirements for local equity participation in foreign investments take two forms i.e. legal and non-legal or administrative controls.

Legal control
Legal control typically takes the form of equity ownership controlled through the issuance of licences, permits and employment passes or in the purchase of real property and acquisitions of any interest in real property. Where the intended operations of a company or business in Malaysia require certain operating licences, equity conditions, restrictions or prohibitions may be imposed through the approval and issuance of such licences by government or statutory bodies, or by the Securities Commission on initial public offerings.

Non-legal / administrative control
One example of non-legal / administrative control are the restrictions under the Guidelines on Foreign Participation in the Distributive Trade Services ("**DTG**") published by the Ministry of Domestic Trade and Cost of Living ("**MDTCA**") and it generally requires all proposals for "foreign participation" in "distributive trade" in Malaysia and any ancillary business activities (e.g. opening of chain stores, mergers and acquisitions) to be subject to the prior approval of MDTCA and for the entity carrying out the activities to adhere to requirements such as incorporation, capital and equity structure conditions, unless the foreign involvement falls within certain types of distributive trades listed in the DTG which are otherwise prohibited altogether (e.g. supermarkets and convenience stores).

"Foreign participation" means any interest, associated group of interests or parties acting in concert which comprises the following:

1. individual (including permanent resident) who is not a Malaysian citizen;
2. foreign company or institutions; or
3. local company or local institution whereby the parties as stated in item (1) and/or (2) hold more than 50 percent of the voting rights in the company or institution.

"Distributive trade" means trade which comprises all linkage activities that channel goods and services from the supply chains to intermediaries for the purpose of resale or to the final buyers. The linkages may either be:

1. direct or indirect between 2 parties (or levels) or more than 2 parties (or levels) within the chain;
2. real physical processes or electronic transactions as defined under the relevant laws;
3. in person or by way of electronic transactions as defined under the relevant laws; or
4. transactions that may or may not involve transference of title of ownership to the goods and services.

The MDTCA has also clarified that foreign participation in companies that are purely service providers and do not distribute or supply goods are still required to obtain the MDTCA's approval prior to the commencement of business. It should be noted that products and services governed by other statutes such as petroleum products, explosives and agricultural raw materials are subject to any additional requirements under these respective acts and regulations.

Although not specifically stated in the DTG, failure to comply with the conditions and approval requirements in the DTG can result in administrative sanctions against a distributive trade company with foreign involvement such as rejection by the Malaysian immigration authorities of any application by foreigners for an employment pass.

INTELLECTUAL PROPERTY

IP registration in Malaysia is generally administered through the Intellectual Property Corporation of Malaysia ("**MYIPO**"), which is a statutory body placed under the jurisdiction of the MDTCA.

Registerable intellectual property rights

The following are the main categories of IP which may be protected by registration with the MYIPO:

Patents / utility inventions

Based on the Patents Act 1983, patent rights protect inventions which are products or processes that permit in practice the solution to a specific problem in the field of technology, while utility innovations protect any innovation which creates a new product or process, or any new improvement of a known product or process, which is capable of industrial application, and includes an invention. According to MYIPO, utility innovations are obtainable for "minor" inventions and need not satisfy the requirement to be inventive, unlike patents. Patent registrations are protected for 20 years from the date of filing of the application while utility innovations are protected for 10 years from the filing subject to use, which may be extended for 2 more terms of 5 years.

Trademarks

Trademarks protect signs which are capable of being represented graphically and are capable of distinguishing goods or services of one undertaking from those of other undertakings. Trademark registrations lasts for a period of 10 years from the date of registration and are renewable for a further 10 year period thereafter.

Industrial designs

Industrial designs protect features of a shape, configuration, pattern or ornament applied to an article by any industrial process which in the finished article appeal to the eye and are judged by the eyes. Industrial design registrations are protected for a period of 5 years from the date of filing of the registration application, which may thereafter be extended for a further 4 consecutive terms of 5 years each, allowing for a maximum period of 25 years.

Geographical indications

Geographical indications protect indications which may contain one or more words which identifies any goods as originating in a country or territory, or a region or locality in that country or territory, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin. Geographical indication registrations last for a period of 10 years from the date of registration and are renewable for further period(s) of 10 years each.

INTELLECTUAL PROPERTY, CONT'D

Unregistered intellectual property rights

The following IP rights are not protectable by registration:

Copyright

Copyright in creative works confer exclusive rights to control the reproduction, public communication, public performance, distribution and commercial rental of the creative works. The duration of copyright protection granted under our Copyright Act 1987 ("CA 1987") is as follows:

1. For literary, musical or artistic works, a copyright subsists during the life of the author plus 50 years after his death;
2. For published editions, copyright subsists for 50 years from the beginning of the calendar year in which the work was first published;
3. For sound recordings, copyright subsists for 50 years from the beginning of the next calendar year following the year in which the recording was first published;
4. For broadcasts, copyright in a broadcast subsists for 50 years from the beginning of the next calendar year following the year in which the broadcast was first made; and
5. For films, copyright in a film subsists for 50 years from the beginning of the next calendar year following the year in which the film was first published.

Trade secrets and confidential information

Trade secrets and confidential commercial information (i.e. information which is not a State or official secret) are protectable albeit not under any overarching piece of legislation. Instead, such information may be protected under the terms of a binding contract, and via legal principles established under common law (e.g. tort of breach of confidential information).

That aside, such information may be protected / regulated based on the circumstances set out in specific legislation. For instance, our Capital Markets and Services Act 2007, which regulates capital markets in Malaysia, makes insider trading an offence while other statutes such as the Personal Data Protection Act 2010 restricts data subjects from exercising rights in respect of their personal data if doing so would disclose confidential commercial information.

Madrid System

Malaysia is a member of the Madrid System since 27 December 2019 when the Madrid Protocol entered into force for Malaysia and our Trademarks Act 2019 incorporates the changes resulting from Malaysia's accession to the Madrid Protocol.

DATA PROTECTION/PRIVACY

The Personal Data Protection Act 2010 ("**PDPA**") is the primary regulation in Malaysia that regulates the collection and processing of personal data of individuals by data controllers (the equivalent of data controllers under the European Union GDPR) in the context of commercial transactions in Malaysia. The Personal Data Protection Commissioner ("**Commissioner**") and his office, the Personal Data Protection Department (Jabatan Perlindungan Data Peribadi or "**JPDP**", or) administer and enforce the PDPA.

The PDPA is supplemented by the following pieces of subsidiary regulation:

1. **Personal Data Protection Regulations 2013**, which prescribe the obligations that data controllers need to comply with in order to fulfil the Personal Data Protection Principles ("**PDP Principles**") set out under the PDPA, and also provides for inspections that may be carried out by the Commissioner;
2. **Personal Data Protection (Class of Data Users) Order 2013** and the **Personal Data Protection (Class of Data Users) (Amendment) Order 2016**, which identify the relevant classes of data controllers that are subject to registration requirements with the Commissioner in order to process personal data;
3. **Personal Data Protection (Registration of Data User) Regulations 2013**, which set out the administrative and procedural requirements to be complied with in respect of the registration of data controllers with the Commissioner for the processing of personal data;
4. **Personal Data Protection (Fees) Regulations 2013**, which prescribe the maximum fees that may be imposed by data controllers for responding to data access requests made by data subjects under the PDPA, as well as the relevant fees payable by data controllers to the Commissioner in respect of requests to inspect / make copies of the Commissioner's grounds of decisions and entries in the Commissioner's register;
5. **Personal Data Protection Standard 2015**, which sets out the minimum security, retention and data integrity standards that data controllers must comply with for the purposes of compliance with the Security Principle, Retention Principle and Data Integrity Principle under the PDPA. These Standards are currently being revised by the Commissioner and the revised Standards will likely be issued sometime in 2026;
6. **Personal Data Protection (Compounding of Offences) Regulations 2016**, which identify the relevant offences under the PDPA which are compoundable and the procedures for offering, accepting and paying compounds; and
7. **Personal Data Protection (Appeal Tribunal) Regulations 2021**, which set out the procedural rules governing the submission of appeals and the conduct of appeal proceedings by the Personal Data Protection Appeal Tribunal established under the PDPA.

DATA PROTECTION/PRIVACY, CONT'D

Personal Data Protection Principles

Similar to the data processing principles found under the GDPR, the PDPA outlines seven (7) Personal Data Protection Principles ("**PDP Principles**") that data controllers are required to comply with when collecting and processing personal data of individuals. Briefly, a summary of the requirements prescribed by the PDP Principles are as follows:

1. **General Principle** – the requirement for a data controller to obtain an individual's consent to process his personal data, save where exemptions under the PDPA apply. Additionally, the collection and processing of sensitive personal data[1] is subject to stricter requirements under the PDPA, and the explicit consent of data subjects is required unless there is an applicable exception under the PDPA. To this end, the exceptions to the explicit consent requirement for sensitive personal data are narrower compared to the scope of exceptions to the consent requirement for personal data generally;
2. **Notice and Choice Principle** – the requirement for a data controller to issue a written privacy notice, setting out the relevant information specified in Section 7 of the PDPA;
3. **Disclosure Principle** – this principle prohibits the disclosure of personal data without the individual's consent, except for such purposes and to such parties as provided in the data controller's privacy notice, or where otherwise exempted by the PDPA;
4. **Security Principle** – the requirement for a data controller and data processor to take steps to protect the personal data from any loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or destruction by having regard to the matters specified in the PDPA;
5. **Retention Principle** - the requirement for a data controller to only keep personal data for as long as is necessary to fulfil the purpose of collection and processing of personal data. The data controller must destroy or permanently delete the personal data where it is no longer required;
6. **Data Integrity Principle** – the requirement for a data controller to take reasonable steps to ensure that the personal data is accurate, complete, not misleading, and kept up-to-date;
7. **Access Principle** – this principle confers individuals the right to request access to their personal data and to correct their data when the personal data is inaccurate, incomplete, misleading, or not up-to-date; and
8. **Transfer Principle** – although not provided as one of the PDP Principles per se, Section 129(3) requires a data controller to fulfil at least one of the 13 conditions outlined under Section 129(3) in order to carry out outbound transfers of personal data from Malaysia (e.g., consent has been obtained from the individual for the transfer of his personal data outside Malaysia).

[1] "Sensitive personal data" under the PDPA refers to any information relating to an individual's (a) mental or physical health or condition; (b) political opinions; (c) religious beliefs or other beliefs of a similar nature; and (d) commission or alleged commission of any criminal offence.

DATA PROTECTION/PRIVACY, CONT'D

The PDPA was amended pursuant to the Personal Data Protection (Amendment) Act 2024, which introduced the following key changes which have come into legal effect on the dates below:

Date	Key Amendments / Provisions
1 January 2025	• Miscellaneous provisions of the Amendment Act, e.g. the amendment allowing notices under the Personal Data Protection Act 2010 ("PDPA") to be served via electronic means
1 April 2025	• Replacement of the term "data users" with "data controllers" • Recognition of biometric data as a type of sensitive personal data • Increased penalties for breach of the Personal Data Protection Principles • Extension of the Security Principle to data processors • Removal of the whitelisting regime for cross-border data transfers
1 June 2025	• New data protection officer appointment obligation for both data controllers and data processors • New mandatory personal data breach notification regime • New right to data portability for data subjects

The PDPA will also be supplemented by the following guidelines:

1. **Guidelines on Data Protection Officer**, which provides guidelines on the requirement under the PDPA for certain data controllers and data processors to hire a data protection officer;
2. **Guidelines on Data Breach Notification**, which provides guidelines on the requirement under the PDPA to notify the Commissioner and affected data subjects of a personal data breach;
3. **Guidelines on Cross-Border Data Transfers**, which provides the conditions for any transfer of personal data outside Malaysia in line with Section 129 of the PDPA;
4. **Guidelines on Management of Data Protection Of Data Protection Officer Training Service Providers**, which provides a prospective framework for the recognition and oversight of training providers for Data Protection Officers;
5. **Data Protection Officer Professional Development Pathway & Training Roadmap**, which provides a prospective pathway to support the development of Data Protection Officers; and
6. **Guideline on Data Protection Officer Competency**, which provides the expectations as to the core competencies expected of a Data Protection Officer.

Additionally, the following guidelines are in development and are expected to be issued in 2026:

1. **Guidelines on Data Portability**, which provides guidelines on the requirement under the PDPA to provide data subjects with the right to request that their personal data be transmitted to another data controller.;
2. **Guidelines on Privacy by Design**, which provides guidelines on the implementation of privacy by design;
3. **Guidelines on Automated Decision Making**, which provides guidelines on the use of automation in any decision making; and
4. **Guidelines Data Protection Impact Assessments**, which provides guidelines on the use of data protection impact assessments.

ARTIFICIAL INTELLIGENCE

No, there is currently no overarching legislation governing Artificial Intelligence ("**AI**") in Malaysia. However, there may be sector-specific instruments that set out specific requirements on the use of AI. For instance, the Guidelines on Technology Risk Management published by the Securities Commission Malaysia set out principles a capital market entity should consider when adopting artificial intelligence and machine learning.

That said, on 20 September 2024, the Ministry of Science, Technology and Innovation released the National Guidelines on Artificial Intelligence Governance & Ethics ("**AIGE**") which provides non-binding best practices on the use and adoption of artificial intelligence by three (3) main stakeholder groups (i.e. users, policymakers and industry including AI developers and designers). The key requirements in the AIGE are encapsulated in the requirements set out in the seven (7) principles of Responsible AI.

On 12 December 2024, the National Artificial Intelligence Office ("**NAIO**"), which was established under the Ministry of Digital for the purposes of accelerating AI adoption, fostering innovation, and ensuring ethical development of artificial intelligence, officially commenced operations. It is anticipated that the NAIO will focus on the following seven (7) deliverables in the coming year:

1. developing an AI Technology Action Plan 2026-2030 to provide a strategic roadmap to enhance Malaysia's AI competitiveness and foreign investor confidence;
2. determining the AI adoption regulatory framework for Malaysia;
3. developing an AI Code of Ethics to ensure the responsible and ethical use of AI;
4. preparing an AI impact study that assesses the impact of AI on the government;
5. developing a National AI Trend Report which provides a market overview on AI trend maturity in selected sectors;
6. providing datasets related to AI technology to develop and implement tailored initiatives; and
7. accelerating AI technology adaptation and promoting widespread AI adoption in Malaysia.

Additionally, the Malaysian Communications and Multimedia Content Code ("**Content Code**") is currently undergoing revision. Based on the Public Consultation Paper on the Malaysian Communications and Multimedia Content Code Review 2025, the revised Content Code may introduce provisions related to the use of AI. These may include requirements for the identification and labelling of AI-generated content, as well as prohibitions on AI-generated content that intentionally deceive or manipulate audiences in a harmful, exploitative or coercive manner.

Alongside these developments, on 1 January 2026, Malaysia's Online Safety Act 2025 ("**ONSA**") came into force. The ONSA regulates harmful online content and imposes duties and obligations on certain licensed service providers. These obligations may also extend to platforms deploying Generative AI, as harmful content may be generated and disseminated through such platforms. Accordingly, such platforms may be required under the ONSA to implement measures to mitigate users' exposure to harmful AI-generated content.

Looking ahead, Malaysia is considering a dedicated AI regulatory framework. In this regard, the Artificial Intelligence Governance Bill is expected to be tabled in Parliament this year. A key feature of the proposed Bill is its emphasis on accountability, including the establishment of clear responsibilities for entities that develop or deploy AI systems. The Bill is also expected to introduce a framework for the reporting of AI-related incidents and harm, particularly in response to the increasing sophistication of deepfake technologies.

MALAYSIA

EMPLOYEES/CONTRACTORS

Classification as employee or independent contractor

As is sometimes the case in other jurisdictions, the risk of misclassifying employees as independent contractors vs employees is also present in Malaysia. Principles have been established under local case law to assist in determining whether a person is an employee or an independent contractor of the "employer". In essence, this assessment turns on a number of factors such as the duration of the relationship between the parties, the degree of control exercised by the parties including the flexibility of the alleged employee's schedule. However, due to amendments to our Employment Act 1955 ("**EA 1955**") in 2023, the EA 1955 raises a presumption that a person is an employee and not an independent contractor where the following are satisfied:

- The "employee"'s manner of work is subject to the control or direction of another person;
- The "employee"'s hours of work are subject to the control or direction of another person;
- The "employee"'s provided with tools, materials or equipment by another person to execute work;
- The "employee"'s work constitutes an integral part of another person's business;
- The "employee"'s work is performed solely for the benefit of another person; or
- Where payment is made to the "employee" in return for work done by the "employee" at regular intervals and such payment forms the majority of his income.

Key employment law requirements for foreign employers

Assuming that the relevant person is an "employee" and not an independent contractor, the key statutes comprising the general employment law framework in Malaysia are as follows:

- **Employment Act 1955**, which is the overarching legislation that sets out the requirements for employee contracts of service and the statutory rights and benefits employees are entitled to (e.g. annual leave, limitations on working hours etc.) among others.
- **Employees' Social Security Act 1969** and **Employment Insurance System Act 2017**, which provides for the establishment of a social security system to provide social security benefits for employees and require employers to pay statutory contributions in respect of their employees.
- **Trade Unions Act 1959** and **Industrial Relations Act 1967**, which regulate the relationship between employers and their trade unions and deals with the creation of the trade union, its procedures and requirements that it has to adhere to, as well as trade disputes and collective agreements.
- **Occupational Safety and Health Act 1994**, which provides a framework for employers to secure the safety, health and welfare among a workforce and protect others against risks to health and safety in connection with activities of persons at work.
- **Immigration Act 1959/63 and Passports Act 1966**, which provide the framework for the entry and removal of persons into and out of Malaysia and sets out the requirements surrounding entry permits into Malaysia.
- **Gig Workers' Act 2025** which is designed to provide social and legal protection to platform-based workers without classifying them as "employees". It establishes a statutory "gig worker" status to ensure mandatory social security contributions, sets minimum compensation standard for tasks, and introduces a dedicated Gig Workers Tribunal to resolve disputes over pay and unfair termination. Please note that while it was gazetted on 31 December 2025, the commencement date remains to be announced. Nevertheless, the Human Resources Minister has announced that the government intends to commence with enforcement in 2026.

EMPLOYEES/CONTRACTORS, CONT'D

In addition to the above, the government is currently in the process of amending the Employees Social Security Act 1969 and the Employment Insurance System Act 2017:

- **Employees' Social Security (Amendment) Act 2026**, which extends protection to non-employment injuries subject to certain exclusions. The amendments also introduce phased employee contribution requirements in respect of such coverage. Both its date of Gazette and Enforcement are currently pending announcement. The Deputy Minister of Human Resources has indicated it is expected to be implemented by "mid-year".
- **Employment Insurance System (Amendment) Bill 2025** which proposes to expand the coverage of the Employment Insurance System Act 2017 to "employment services for any person", a duty for employers to notify the Social Securities Commission of new job vacancies and positions before the hiring of an employee, the introduction of mobility assistance allowances and enhanced benefits. The Bill has passed the Dewan Rakyat while its tabling before the Dewan Negara is currently pending following industry concerns.

However, depending on factors such as the type of employee (e.g. local vs foreign employee) and their income etc. the extent to which the provisions in the above laws are applicable will vary from case to case and additional laws may also be relevant.

Foreign workers and expatriates may be employed in Malaysia subject to obtaining the required employment passes/permits, and adhering to requirements such as minimum paid-up capital requirements for the employer entity, and requirements for the employer to obtain the prior approval of the Director General of Labour in order to employing a foreign employee. etc.

Whether "work for hire" regime exists in Malaysia

To the extent expressed under statute, Malaysia operates a qualified work for hire regime. For example, our Patents Act 1987 states that the patent rights for an invention created by an employee in the performance of their employment contract or work will accrue to their employer subject to provisions to the contrary in their employment contract, provided however that the employee (as the inventor) is entitled to equitable remuneration if the invention acquires an economic value much greater than the companies could have reasonably foreseen at the time the contract was concluded. Our CA 1987 similarly deems works made in the course of the author (i.e. employee)'s employment to be transferred to their employer subject to any agreement with the employee excluding or limiting such transfer.

Restrictions on termination of employees

There are restrictions on termination of employees under Malaysian laws and there is no general right for termination "at-will" in Malaysia. Termination of employees in Malaysia must be done with "just cause or excuse" and employees are protected from unfair dismissal. While the ambit of "just cause or excuse" is not defined under statute, dismissal for reasons such as misconduct and redundancy would qualify as such.

Termination must be conducted in accordance with the employee's termination notice. The termination notice period may be set out under the contract, failing which the EA 1955 sets out minimum termination notice requirements of 4-8 weeks depending on the length of employment served by the employee. However, no termination notice is required for termination due to wilful misconduct. Statutory severance payments are also applicable in Malaysia and these are set out under the Employment (Termination and Lay-Off Benefits) Regulations 1980 which have been enacted pursuant to the EA 1955. The severance payments payable vary from 10-20 days' wages for each year of the employee's employment under a continuous contract, and varies depending on the duration of employment served by the employee.

EMPLOYEES/CONTRACTORS, CONT'D

Restrictions on termination of employees, CONT'D

That said, please note that depending on the type of employee and the circumstances surrounding the termination e.g. whether termination is due to redundancy or transfer of assets/business, there may be requirements in respect of termination which are in addition to, or departing from the foregoing. For example, under the EA 1955, in the event that the termination is in respect of foreign employees, the employer is required to provide notification to this effect to the Director General of Labour within 30 days of the termination etc.

CONSUMER PROTECTION

Consumer Protection Act 1999 ("CPA")

Consumer protection law in Malaysia is generally governed under our CPA. The CPA applies to B2C consumers and sets out the implied guarantees for the supply of goods and services to consumers, manufacturer guarantees, regulates unfair contract terms and product liability, and provides offences on misleading and deceptive conduct, among others. The Consumer Protection (Electronic Trade Transactions) Regulations 2024 ("**ETT Regulations**"), which is enacted pursuant to the CPA, sets out (among other requirements) additional disclosure requirements which must be disclosed on the website of persons who supply goods or services through a website, as follows:

1. Name of the online marketplace supplier or company;
2. Website address of the online marketplace, if any;
3. E-mail address and telephone number of the online marketplace supplier;
4. Address of the trade or advertisement to supply or advertise goods or services through the online marketplace is operated;
5. Description of the main characteristics of the goods or services;
6. Full price of goods or services including transportation costs, taxes and any other cost;
7. Method of payment;
8. Terms and conditions of the sale and purchase of the goods or services;
9. Estimated time of delivery of goods or supply of services to the purchaser;
10. Certificate that the goods or services have followed the standard of safety and health as may be determined by the competent authority, if any.

It is an offence under the CPA for suppliers or manufacturers to purport to contract out of the CPA, and the CPA shall have effect notwithstanding anything in the contrary in an agreement and notwithstanding any contract term applying or purporting to apply the law of another country with the aim of evading the provisions of the CPA.

Sale of Goods Act 1957 ("SoGA")

Unlike our CPA, our SoGA does not limit itself to B2C contexts only and is capable of applying in a B2B context as well. However, unlike the CPA, the SoGA states that liabilities which arise under a contract of sale by implication of law may be negatived or varied by express agreement, by the course of dealing between the parties or by usage if the usage is to bind the parties to the contract.

Aside from the above, specific requirements may also apply depending on the sector in which the entity operates in. For instance, if the entity is a holder of a telecommunications licence under the CMA, the entity will be required to comply with the consumer codes published by the Malaysian Communications and Multimedia Commission.

MALAYSIA

TERMS OF SERVICE

Online contracts are recognized under our Electronic Commerce Act 2006 ("**ECA**") as valid and enforceable contracts. The ECA clarifies that the formation of a contract, the communication of proposals, acceptance of proposals, and revocation of proposals and acceptances or any related communication may be expressed by an electronic message and that a contract shall not be denied legal effect, validity or enforceability on the ground that an electronic message is used in its formation. However, as with any contract, the validity and enforceability of the contract remains subject to the contract satisfying the requirements for a valid and enforceable contract under our Contracts Act 1950 ("**CA 1950**"), which is no exception for an online contract.

In this regard, an online contract will generally be a valid and enforceable contract if it consists of an offer, acceptance, consideration, and the intention to create legal relations. However, to be a valid and enforceable contract under the CA 1950, the contract must also satisfy certain conditions (e.g. agreement is made by consent of parties competent to contract, agreement must be for lawful consideration, and not voided by circumstances such as unlawful objects or considerations, restraint of lawful profession, trade or business).

That said, there may be additional requirements or restrictions which may render the online terms invalid or unenforceable which apply depending on factors such as the specific drafting, surrounding context and intention of the term itself (e.g. contract terms which are substantively or procedurally unfair may be declared unenforceable or void under the CPA; liability due to defective products may not be limited or excluded pursuant to certain product liability provisions under the CPA).

TAX/FUNDING

Taxation Overview

As Malaysian startups are typically organised as corporations, the primary tax consideration for these startups would usually be corporate income tax which applies federally. A company will be considered a tax resident in Malaysia if the management and control of its affairs are exercised in Malaysia. Resident companies will be subject to a corporate tax of 24%. However, rates between 15% to 24% may apply depending on the paid-up capital and gross business income of the company. Non-resident companies may still be subject to corporate tax, which is set at varying rates no greater than 24% depending on the type of income of the company (e.g. royalty income, income from rental of moveable properties etc.).

Additional tax obligations for resident and non-resident corporations may include obligations under capital gains tax, withholding tax, sales tax, and service tax regimes.

Funding/Incentive Programs

In Malaysia, there are a variety of funding and tax incentive programmes which may be applicable to a startup (as well as companies at later stages). However, local incorporation requirements may apply in order to satisfy eligibility requirements for the funding and tax incentive programmes.

One key tax incentive for digital investments is the MD Tax Incentive, which is administered by the Malaysia Digital Economy Corporation and granted to companies designated with Malaysia Digital Status ("**MD Status**"). In order to qualify as a MD Status company, the company must (among others) carry out or propose to carry out prescribed qualifying activities (including artificial intelligence, cloud, blockchain, cyber security etc.) and comply with prescribed conditions (including conditions on minimum paid up capital etc.)

TAX/FUNDING

Funding/Incentive Programs, CONT'D

Under the MD Tax Incentive, companies may obtain full tax exemption or partial tax exemptions depending on the type / source of the income, which applies for a period of between five (5) to ten (10) years. Another key incentive for digital investments is the Digital Ecosystem Acceleration Scheme ("**DESAC**") which provides digital technology providers and digital infrastructure providers with full or partial income tax exemptions.

The above are only two of many programs aimed at funding technology, innovation and employment within Malaysia. There are various other regimes available, details of which can be found here and here.

Each program will of course have its own criteria for qualifying, which may include sectoral and geographical requirements, and foreign equity restrictions.

WHAT ELSE?

Apart from those as stated above, we are not aware of any other specific requirements which should be known by the foreign entity prior to entry.



MEXICO

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MEXICO
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MEXICO

LEGAL FOUNDATIONS

Mexico follows the civil law system. The applicable legislation (laws, legal codes and regulations) has its application at a federal and local levels (this latter both as states and municipalities in some cases), each one with its respective procedure by the corresponding legislators in the field of public, private and criminal law.

Federal laws are reserved for certain matters such as energy, mining, communications, tax, labor, public health, foreign trade, commercial or electoral.

Legislators from the States and the municipalities in Mexico may pass laws that are not exclusively reserved for the federal government.

Considering the foregoing, the rulings are directly applied by the Judicial System which is also separated between the federal and local courts. However, even when certain litigation shall be ruled by a local court, it is common to expect the participation of a federal court due to the existence of certain defense mechanisms, such as the amparo, which is exclusively resolved by a federal court.

CORPORATE STRUCTURES

Mexican Law comprises the following forms of companies:

Corporation (Sociedad Anónima)

The Mexican Sociedad Anónima is the most commonly used company for businesses in Mexico together with its variation Sociedad Anónima Promotora de Inversión which is intended to be more flexible for companies with third investors. As to its requirements:

- It requires at least two shareholders (individual or legal entity) for its incorporation.
- The incorporation shall take place before a notary public to sign the articles of association (estatutos sociales) in form of a public deed. Then, the notary shall file the registration of the company in the Public Registry of Commerce.
- It does not have a minimum amount for capital stock.
- It can be managed through a sole director or a board of directors. Necessarily, will need a statutory auditor (Comisario) who shall watch for the correct performance in the activities of the directors.
- The law provides certain minority rights for shareholders.

CORPORATE STRUCTURES, CONT'D

Corporation (Sociedad Anónima), CONT'D

ADVANTAGES

- Liability of the shareholders is limited to the amount of their capital contributions
- Managing directors are bound to the instructions of the shareholders
- Corporate governance considers the Comisario
- Transfer of shares does not require special protocols or provisions
- Mexican corporate law grants minority shareholders specific rights, such as the ability to (i) request a shareholders' meeting, (ii) appoint a statutory auditor, and (iii) challenge resolutions or acts that violate the law or the company's articles of association

DISADVANTAGES

- Free transmission of shares may create a scenario where a third shareholder not wanted by the rest of shareholders, is the new owner of shares
- To avoid the previous scenario, bylaws may turn extra complicated by including ROFR or preemptive rights provisions
- The articles of association as well as any amendment, shall be notarized

Overall, the Sociedad Anónima Promotora de Inversión is the most commonly used type of company for start-ups due to the flexibility and minority rights provided in law.

Partnership (Sociedad de Responsabilidad Limitada)

Apart from the Sociedad Anónima, the most common forms of partnerships for businesses are the Sociedad de Responsabilidad Limitada, which are a limited partnership. As to the requirements:

- It requires at least two partners (individual or legal entity) for its incorporation.
- Similar as the Sociedad Anónima, the incorporation shall take place before a notary public to sign the articles of association (estatutos sociales) in form of a public deed. Then, the notary shall file the registration of the company in the Public Registry of Commerce.
- It does not have a minimum amount for capital stock.
- It can be managed through a sole manager or a board of managers.
- Any transmission of equity stock needs to be approved by unanimous decision.

ADVANTAGES

- Liability of the partners is limited to the amount of their capital contributions
- The entry of third unwanted partners is easier to avoid
- Managers are bound to the instructions of the shareholders
- It may present some tax advantages from a foreign tax perspective in case the partners are of US nationality

DISADVANTAGES

- Transmission of equity stock is complicated to execute
- This type of partnerships have a cap on the number of partners (50) limiting growth potential

Due to the corporate governance and specific requirements for the transmission of equity interests, these companies are not very attractive for start-ups.

CORPORATE STRUCTURES, CONT'D

Unincorporated Partnership (Asociación en Participación)

Besides the previously mentioned business companies, which are formal in their nature, Mexican law allows the creation of unincorporated partnerships or joint ventures called Asociación en Participación, which have proven advantageous as an alternative investment vehicle.

The Asociación en Participación is an agreement and not a separate stand-alone entity in which "limited partners" make contributions (i.e. transfer of assets) to a "general partner", for the latter to engage in certain economic activity. From a tax perspective, certain aspects need to be analyzed and considered, in order for the Asociación en Participación to not be deemed as an equivalent of a legal entity, thus being taxed separately from their partners.

Sole Proprietorship (Sociedad por Acciones Simplificada)

The Sociedad por Acciones Simplificada is a sole proprietorship type of company that was recently included in the Mexican law. It allows entrepreneurs to incorporate a company and obtain certain tax benefits. It can be incorporated through a website of the Ministry of Economy and most acts do not need to be notarized.

However, this type of company is rarely used and only recommended for small businesses and not start-ups which will have a scale-up period and an expected high growth.

*Ultimate Controlling Beneficiary Provisions

It is also worth mentioning that recently, the Mexican Anti-Money Laundering Law requires all types of business companies to identify and register their ultimate controlling beneficiaries (which should be individuals and not other legal entities), as well as any changes thereto, in a public system controlled by the Ministry of Economy.

At the time of publication of this guide, secondary regulation on the identification and registration of the of ultimate controlling beneficiaries is pending publication and enactment.

ENTERING THE COUNTRY

Mexican legislation provides certain sectors or activities where foreign investment is forbidden (e.g. national land transportation for passengers, tourism and cargo, or development banking) or limited (e.g. manufacturing and commercialization of explosives, publishing newspapers, inland fishing or in exclusive economic zones, port pilotage for inland navigation, broadcasting, etc.), and others where any acquisition exceeding 49% in the relevant entities by foreigners requires prior approval by the National Commission of Foreign Investment (e.g. port services for inland navigation, aerodrome concessionaries, private education services, legal services, construction and exploitation of general railway lines, etc.). The Commission may prevent the acquisition if it considers it a threat to public order or ask for certain conditions upon its conclusion.

Likewise, once the acquisition is carried out by foreign investment (whether requiring prior approval or not) or a new company with foreign investment is incorporated, the acquired company or such new company, as applicable, shall be registered in the National Registry of Foreign Investments, to document the foreign investors and their capital contributions. Quarterly and annual reporting obligations are applicable, depending on certain acts or economic thresholds set forth by the National Registry of Foreign Investment.

MEXICO

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign perceptible by the senses and capable of being represented in a manner that makes it possible to determine the clear and precise object of protection, which distinguishes goods or services from others of the same kind or class in the market.

Where to apply? Trademark applications shall be filed before the Mexican Institute of Intellectual Property for trademark protection within Mexico. Mexico is part of the Madrid Protocol System; thus, if the goods or services are intended to be commercialized within other countries, a filing through out the World Intellectual Property Organization (WIPO) under the Madrid System would be possible.

Once the trademark application is filed, the study carried out by the IMPI with respect to such application, has a duration of 4 to 6 months approximately, however, the process can be extended 6 months more if the Authority points out any impediment to grant the registration through an Official Action, which we can answer within a term of 2 months from the notification of the corresponding official notice with the possibility of requesting an extension of 2 additional months.

Duration of protection? If no oppositions are filed, once the application process is completed and the legal and regulatory requirements are satisfied, the trademark registration title will be issued, which will be valid for 10 years from the filing date of the corresponding application and will be renewable for periods of the same duration. Likewise, after the third year of the granting of the registration, a declaration of use must be filed before the IMPI to prove the real and effective use of all the products or services protected by the trademark.

Costs? The governmental fee for the study of a trademark application is 150 USD.

Patents

What is protectable? Any human creation that allows the transformation of matter or energy existing in nature, for its use by man to satisfy his specific needs, shall be considered an invention. Such inventions requires the following properties: (i) Novelty, which, according to Mexican legislation, is considered novel anything that is not "prior art", i.e., that is information in the public domain; (ii) Industrial Application, which implies that the invention must have a practical utility that results in a benefit to society, being susceptible to its production and use in any branch of economic activity, for determined purposes; and (iii) Inventive Step, which represents the technical development, consisting in the creative process whose results should not be deduced from the prior art in an obvious or evident way for a technician in the field.

Where to apply? Patent applications shall be filed before the Mexican Institute of Intellectual Property for trademark protection within Mexico. Applications require use of clear and specific terms to describe the patent in order to avoid a requirement or the rejection of the applications.

Duration of protection? The term of protection corresponds to a maximum of 20 years from the filing of the application and must be maintained by annual fees.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

Costs? The governmental fee for the study of a patent application, including Paris Convention is 265 USD (considering 30 sheets of annexes, each additional sheet will have a costs of 4 USD). The governmental fee for the national phase entry, pursuant to Chapter I of the Patent Cooperation Treaty is 185 USD (considering 30 sheets of annexes, each additional sheet will have a costs of 4 USD). The governmental fee for the national phase entry, pursuant to Chapter II of the Patent Cooperation Treaty is 90 USD (considering 30 sheets of annexes, each additional sheet will have a costs of 4 USD). The government fee for claiming one priority on a patent application is 65 USD.

In addition, for each year of conservation of the rights conferred by a patent, the following rates shall be paid: from the first to the fifth, for each one: 70 USD; From the sixth to the tenth, per each: 80 USD; from the eleventh to the tenth, for each one: 90 USD.

Industrial Designs

What is protectable? Designs that are susceptible of industrial application, as well as of independent creation and differ significantly from known designs or combinations of known characteristics of designs can be registered.

Where to apply? The application must be filed before the Mexican Institute of Industrial Property. Recently, in June 2020, Mexico joined the Hague System, thus, an application can also be submitted through such System in order to obtain the protection among different jurisdictions.

Duration of protection? The protection of industrial designs have a validity term of five years counted from the filing date of the application. However, the registration is renewable for successive periods of the same duration up to a maximum of twenty-five years, subject to the payment of the corresponding fees.

Costs? The governmental fee for the study of an industrial design application is 116 USD. The governmental fee for each additional industrial design that meets the unity requirement is 4 USD. The government fee for claiming one priority on a industrial design application is 65 USD.

Copyright

What is protectable? Works of original creation susceptible of being disclosed or reproduced in any form and format; these works are protected from the moment they have been fixed on a material support, regardless of their merit, destination, or mode of expression. In this regard, although the recognition of copyright and its related rights does not require registration or document of any kind, nor shall it be subordinated to the fulfillment of any formality, Copyright is the recognition by the State in favor of the creations of authors. The abovementioned creations contemplate literary, musical with or without lyrics, dramatic, dance, pictorial or drawing, sculptural and plastic, caricature and cartoon, architectural, cinematographic and other audiovisual works, radio and television programs, computer programs, photographic, works of applied art, including graphic or textile design, and compilation works.

INTELLECTUAL PROPERTY, CONT'D

Copyright, CONT'D

Where to apply? Applications shall be filed before the National Copyright Office.

Duration of protection? The patrimonial rights derived from the Copyright protection ends 100 years after the author has passed away, or 100 years after been disclosed.

Costs? The governmental fee for the study of a copyright application is 17 USD.

The following IP rights cannot be registered:

Trade Secrets

Trademark secrets are contemplated in the Federal Law for the Protection of Industrial Property and basically requires what in most jurisdictions are needed (e.g. a system to protect the access to the confidential information and specifications for revealing such information).

What is protectable? A Trade Secret is considered to be any information of industrial or commercial application kept confidential by a person or legal entity, this information must imply a competitive or economic advantage over third parties in the performance of economic activities, over which it has been adopted sufficient means or systems to preserve its confidentiality and restricted access. Such information must necessarily refer to the nature, characteristics or purposes of the products; to the methods or processes of production; or to the means or forms of distribution or commercialization of goods or rendering of services.

Duration of protection? Trade secrets protection can last as long as the information actually remains confidential.

How to keep trade secrets secret? The information that constitutes the Trade Secret shall be contained in documents, electronic or magnetic media, optical discs, microfilms, films, or other similar instruments. Likewise, the person who keeps the Trade Secret is allowed transmit it or authorize its use to a third party, such authorized user shall be under the obligation not to disclose the industrial secret by any means. On the other hand, in the agreements by which know-how, technical assistance, provision of basic or detailed engineering, confidentiality clauses may be established to protect the Trade Secrets that they contemplate, which shall specify the aspects that they include as confidential.

MEXICO

DATA PROTECTION/PRIVACY

In Mexico, the processing of personal data has been governed by a regulatory legal framework for more than a decade, following the enactment of the Federal Law on the Protection of Personal Data Held by Private Parties (the "Data Protection Law"), which is inspired by the European model provided in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on free movement of such data.

Notwithstanding that, Mexico is currently undergoing a process of regulatory transformation in this area, driven by a series of constitutional, organic-administrative, and privacy reforms. On March 20, 2025, the Federal Executive Branch approved a bill enacting, among other statutes, the new Data Protection Law, replacing the 2010 version. As a result, the amendments to the complementary regulations in this area, such as the Regulations to the Data Protection Law and the Privacy Notice Guidelines, are still pending publication.

Among the amendments introduced to the legal framework governing this matter are included, in summary: **(i)** technical clarifications concerning the formal and substantive elements of privacy notices; **(ii)** modifications to the conditions for exercising ARCO Rights; and **(iii)** updates to certain relevant definitions in the field (e.g. "data subject" and "controller"). Notably, one of the most significant changes is the recognition of the constitutional **Amparo proceeding** as the only legal remedy currently available to challenge resolutions issued by the data protection Authority, which must be heard by District Courts and Collegiate Circuit Courts specialized in access to public information and the protection of personal data.

In this regard, it is also worth recalling that, by means of a Decree published in the Official Gazette of the Federation on December 20, 2024, a constitutional reform on administrative simplification was enacted, the purpose of which was to eliminate seven autonomous constitutional bodies, including the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI). Consequently, **the authority responsible for overseeing the protection of personal data held by private parties in Mexico is now the Ministry of Anticorruption and Good Governance, as the INAI has formally disappeared**.

Although the foregoing amendments have been enacted, the new data Protection Law remains grounded in its foundational principles, that each data controller must abide to:

- **Legality:** All personal data shall be lawfully collected and processed.
- **Consent:** All processing of personal data shall be subject to the consent (whether express or implied) of the data subject, with certain exemptions set out in the Data Protection Law. Except for certain specific cases, processing of any sensitive personal data requires that the data controller obtains the express consent (i.e. evidenced in writing or through an electronic signature or any other authentication mechanism developed for that purpose) of the data subject to process such sensitive data.
- **Quality:** Personal data in a database needs to be relevant, accurate and up to date for the purpose for which it is meant to be used and the data controller shall only retain personal data for as long as it is necessary to fulfil the specified purpose or purposes. Regarding sensitive personal data, reasonable efforts shall be made to keep the period of processing to a minimum.
- **Purpose:** Processing of personal data shall be limited to the purpose or purposes specified in a privacy notice. No database containing sensitive personal data shall be created without justifying that the purpose for its collection is legitimate, concrete and in compliance with those activities or explicit purposes sought by the data controller. Any processing of personal data for a purpose that is not compatible or analogous to what is set forth in a privacy notice shall require a new consent from the data subject.
- **Proportionality:** Processing of personal data must be necessary, adequate and relevant for the purpose or purposes set forth in the privacy notice.

DATA PROTECTION/PRIVACY, CONT'D

- **Loyalty:** Processing of personal data shall favor the interests of the data subject and a reasonable expectation of privacy (understood as the level of confidence placed by any person in another one, with the exchange of personal data between them being processed as agreed between them in compliance with the Data Protection Law). Collection of personal data shall not be made through fraudulent or deceitful means.
- **Transparency:** Data controllers shall inform data subjects, by means of a privacy notice, on the personal data that will be subject to processing, and the purposes therefor. The privacy notice shall expressly state which information is of a sensitive nature.
- **Responsibility:** Data controllers shall adopt the necessary measures to comply with all data protection principles during the processing of personal data, even if the processing is carried out by data processors or third parties. Thus, data controllers shall ensure full compliance with the privacy notice delivered to the data subject by them, or by third parties with whom it has a legal relationship.

In addition to these principles, all data controllers shall comply with the duties of security and confidence, which are also applicable to data processors and third parties receiving any personal data from a data controller. The latter must verify that such duties are observed by those third parties.

Data controllers shall implement appropriate organisational, technical and physical security measures to protect personal data against unauthorised damage, loss, modification, destruction, access or processing. These measures shall be at least equivalent to those implemented for their own confidential information.

Further, all personal data shall be kept confidential, even upon the termination of any relationship with the data subject and amongst any data controller and data processor.

MEXICO

ARTIFICIAL INTELLIGENCE

Mexico has taken the first steps towards achieving a proper regulation of AI. Currently, there are initiatives to regulate different aspects of the AI, mainly to the Federal Criminal Code (to typify actions that might constitute felonies related to the use of the AI); and a constitutional reform whose main purpose is for the Legislative Branch to have the full capacity to legislate on AI, cybersecurity and neuro-rights.

The National Alliance of Artificial Intelligence has also been formed, with the participation of all the involved stakeholders (on a voluntary basis) organizing different working groups on issues such as the impact of the AI in health, education and labor rights, and which will also participate in the analysis of actions that have an impact on the responsible use of AI during electoral processes.

The Federal Senate of the Mexican Republic has also installed its Digital Rights Commission, whose objectives include accelerating the legislative process in technological initiatives, including those related to the development and use of AI, which were presented but have not been discussed yet.

The Senate submitted the conclusions of six working tables organized in conjunction with the National Artificial Intelligence Alliance to analyze the main topics that should be addressed at the time of regulating AI in Mexico. These conclusions focus on the following key factors: ethics in the development and use of AI, as well as human rights and innovation in this area.

Regarding the first point, ethics, it is essential to address accountability in the development, use and application of this technology, as well as data integrity and algorithmic transparency, so that these factors are considered in an equitable and non-discriminatory approach, with human scrutiny.

On the other hand, regarding human rights provisions, it was proposed to promote diversity, equality and inclusion so that all people have access to this tool, in order to protect dignity, privacy, personal data and generate digital trust. As well as guaranteeing the qualification of teachers, adapting the educational model to technological development and promoting public policies for the preservation of indigenous languages and cultures in the application of AI, incorporating concepts such as neuro-rights, and ensuring that its development is sustainable. As for innovation, the Senate established that it is not only necessary to have a budget to develop this technology but to prioritize the same at the highest level.

EMPLOYEES/CONTRACTORS

Employment relationships in Mexico are documented through individual employment agreements which describe the general terms and conditions of employment, including benefits to be granted to the employees.

Under the applicable law, the main and default hiring modality is for an indefinite term (i.e. permanent employment), which can be subject to a probationary period (of 30 days or 180 days in case of executives (i.e. directors, managers) or persons hired to perform specialized technical or professional activities, in order for employees to prove they possess the required skills for a certain job position).

Exceptionally, in certain cases, individual employment agreements can be validly entered for other modalities, namely: a fixed term, for a specific project, for initial training, or for seasonal work. Additionally, when an employee performs more than 40% of their weekly work shift remotely, they are considered "teleworkers" and must be documented accordingly. Teleworking involves performing activities in places other than the workplace of the employer, primarily through the use of information and communication technologies.

The change to this modality must be voluntary and in writing, with the right to return to the in-person modality. A written agreement is required, which includes the special characteristics of this type of work, such as description of the equipment and supplies to be provided to the employee, amount for payment of related services, mechanisms for communication at distance, and mechanisms for contact and supervision, respecting the right to privacy of individuals at all times.

EMPLOYEES/CONTRACTORS, CONT'D

Employers must: **a)** provide, install and maintain the equipment necessary for teleworking, such as computers, ergonomic chairs, printers, etc., and keep records evidencing the delivery to employees; **b)** assume the proportional costs derived from working through teleworking, including payment for telecommunication services (internet) and electricity; **c)** implement mechanisms that protect the security of information and personal data; **d)** respect the right to digital disconnection of employees at the end of their workday; and **e)** provide needed training.

Please note that all employees hired under any of these modalities are entitled to the minimum statutory benefits such as minimum wage; work shifts, rest time, national holidays and overtime; fully paid vacation period and vacation premium; year-end (Christmas) bonus; profit sharing; social security; and maternity and paternity leaves.

Both Mexican copyright and labour laws provide for a work for hire regime, which needs to be included in individual employment agreements. The default rule (unless the parties agree otherwise) is that economic rights will be divided in equal parts between employee and employer (with employees being entitled to appear as authors). Special provisions will be applicable to research and development positions.

With respect to termination of employees, employment-at-will is not applicable in Mexico. Employees can only be terminated for justified causes provided in the applicable law without triggering payment of severance (being advisable to terminate an employment relationship for cause if the employer has sufficient and convincing objective evidence of the corresponding justified causes).

Termination without a justified cause implies payment of severance, which includes a 3 months' salary constitutional indemnity, and a seniority premium equivalent to 12 days' salary (capped to a maximum amount) per year of service rendered. Also, it has become a customary and widely adopted practice of conservative employers terminating employees without a justified cause, to pay 20 days of consolidated salary per each full year of service, in addition to the mentioned constitutional indemnity and seniority premium.

Lastly, with respect to the main employment matters to be considered in Mexico, please note that Mexican law generally prohibits personnel outsourcing (i.e., arrangements where an individual or entity supplies or makes its employees available to a third party).

An exception applies to "specialized services" or "specialized tasks," provided that: (i) such services are not part of the beneficiary's corporate purpose or core economic activity, and (ii) the service provider is duly registered with the Specialized Services Registry (REPSE).

CONSUMER PROTECTION

In general, suppliers of goods and services are obliged to undoubtedly inform to consumers (and abide by) the terms and conditions applicable to such goods and services, including prices, fees, guarantees, amounts, quality, measurements, interests, charges, terms, restrictions, dates, exceptions, etc.

Further, the Federal Consumer Protection Law provides the minimum provisions that adhesion agreements (i.e. agreements prepared unilaterally by suppliers for their acceptance or rejection by consumers, without room to negotiation) need to comply with, in order to not imply disproportionate provisions nor inequitable or abusive obligations for consumers.

Depending on the goods or services offered by a supplier, certain adhesion agreements need to be mandatorily registered before the Federal Consumer Protection Law.

TERMS OF SERVICE

E-commerce does have particular provisions to be complied with, mainly, with respect to consumer protection and data privacy. A special chapter governing e-commerce is included in the Federal Consumers Protection Law, and there is a Mexican standard (Norma Mexicana) containing the provisions that e-commerce platforms and websites must comply with, including the requirements to be met for the terms and conditions. For example, they must be in Spanish language, the procedures for applicability of guarantees, devolution of goods and publicity requirements, must be clearly included (amongst other particular provisions). Also, depending on the sector (e.g. financial), additional special provisions must be considered and included.

Starting as from 2026, an amendment to the Federal Consumers Protection Law aimed at regulating automatic renewals and recurring charges in digital services, including streaming platforms and subscription-based models is now in force. The reform establishes that providers must clearly inform consumers when a service entails automatic renewals and must provide prior notice of at least five days in advance, before processing a renewal charge. It also strengthens the obligation of the providers of enabling accessible and straightforward cancellation mechanisms, in order to reinforce transparency and seek to prevent unauthorized or unexpected recurring charges in the digital marketplace.

TAX/FUNDING

Tax

The principal taxes in Mexico are income tax and value added tax.

Corporate income tax
In México, all the corporate structures are subject to a general tax regime, thus the following tax implications refer to either a Corporation, Investment Promotion Stock Company or Limited Partnership.

Mexican income tax rate for companies is 30% on the net profits. In general terms, net profits are calculated by subtracting authorized deductions from taxable income. There are several requirements to be met for authorized deductions.

Companies are required to file monthly income tax payments during the fiscal year and the annual tax return within the first three months of the fiscal year where the monthly payments can be credited. If a tax loss is incurred, then it can be carried forward up to ten years.

TAX/FUNDING, CONT'D

Tax, CONT'D

Dividends
Companies must keep an after-tax profits account (CUFIN for its acronym in Spanish) where profits that were already taxed are registered. If dividends (paid to either another Mexican company or Mexican individual) come from CUFIN account, then they will not be taxed when distributed, otherwise the dividends will be taxed at a 30% rate.

Dividends paid to a Mexican individual or foreign residents are subject to a tax withholding of 10%, regardless they come from CUFIN or not.

In certain cases, benefit of Tax Treaties can be applied to diminish the withholding tax rate applicable to a foreign resident, but specific requirements must be met.

Similar rules apply to capital redemptions.

Transactions with related parties
Transactions carried out with related parties must comply with arm's length rules. In certain cases, the Company must keep Transfer Pricing Studies and file informative returns. Intercompany expenses can be authorized deductions provided specific requirements are met.

Interests
Interests paid to foreign residents are subject to a tax withholding at rates form 10% to 35% depending on the origin and the recipient. In certain cases, benefit of Tax Treaties can be applied to diminish the withholding tax rate applicable to a foreign resident, but specific requirements must be met.

Regarding debts incurred with foreign related parties, under thin capitalization rules interest related to loans which exceed 3 to 1 debt to net equity ratio are non-deductible.

Also, interests derived from back-to-back loans and from loans which do not comply with arm's length rules are non-deductible.

Moreover, net interest (taxable accrued interest less deductible interest) exceeding 30% of an adjusted taxable profit amount are non-deductible.

Capital gains
Profits derived from the transfer of assets, real property or shares by a Mexican company are taxable at the corporate income tax of 30%.

When shares or equity interests of a Mexican company are transferred by a foreign resident owner, the general tax rate is 25% upon the purchase price or alternatively 35% upon the effective gain (tax basis minus the purchase price). To be able to apply for the 35% option or to claim Tax Treaty benefits, among others, the seller must provide tax residency certificate and appoint a Mexican legal tax representative who must comply with certain requirements and would be jointly liable for the income tax for the transfer.

TAX/FUNDING, CONT'D

Tax, CONT'D

Technical assistance and royalties
Regarding payments to foreign residents, technical assistance services are subject to a 25% of tax withholding while royalties paid for patents, certificates of invention or improvement, trademarks and trade names, as well as for advertising, are subject to a 35% of tax withholding.

In certain cases, benefit of Tax Treaties can be applied to diminish the withholding tax rate applicable to a foreign resident, but specific requirements must be met. However, according to Tax Federal Court's criteria, technical assistance does not qualify as business profits, thus royalties would always be subject to a tax withholding.

In order to deduct technical assistance and royalties payments, among others, the Company must prove that that the provider of the knowledge has technical means to do it and that it is provided directly and not through third parties.

Local taxes
The most important local taxes are payroll tax at an average rate of 3% depending on the State, realty state tax calculates with progressive quotas depending on the value of the real property and in certain States, green taxes applicable on the emission of polluting gases, wastes, pollution of the soil and water.

Subcontracted services
Only payments of specialized subcontracted services (those which are not part of the business core of the company) are deductible provided certain requirements are met.

Profit Sharing (PTU ofr its acronym in Spanish)
In Mexico, statutory employee profit sharing ("PTU") it is a general employer obligation (when applicable) to distribute 10% of the employer's taxable profit base among eligible employees, subject to an individual cap equal to three months' salary or the average PTU received in the last three years, whichever is more favorable to the employee.

VAT
The general tax rate is 16% on the price of the selling of goods, services provision, the temporary use of goods grant, or import goods or services into Mexico. Input VAT is creditable against output VAT.

Fiscal stimulus
On January, 2025 a fiscal stimulus was published, through which tax incentives are granted to encourage new investments, consisting of immediate deduction of fixed assets, as well as an additional deduction for training, provided certain requirements are met.

Moreover, on June, 2023 another stimulus was published for the granting of tax benefits and administrative advantages to taxpayers who carry out productive economic activities within the Welfare Development Poles (located in Oaxaca and Veracruz).

Funding/Incentive Programs

In Mexico, there are several financial support programs established by the federal government, from which entrepreneurs and startups could benefit. Such include the following, besides any particular local (i.e., state or municipal) programs that could be available:

TAX/FUNDING, CONT'D

Funding/Incentive Programs

In Mexico, there are several financial support programs established by the federal government, from which entrepreneurs and startups could benefit. Such include the following, besides any particular local (i.e., state or municipal) programs that could be available:

PRONAFIM:
The National Microentrepreneur Financing Program of the Federal Ministry of Economy has as its main objective the support of microentrepreneurs to undertake and develop their businesses in Mexico through the intermediation of Microfinance Institutions and training and incubator organizations.

Youth Building the Future:
This program helps young people (aged 18 to 29) boost their professional experience for a 12 months period, by receiving training and practical experience in work centers that decide to participate in the program. Trainees get a monthly scholarship and social security service funded by the Mexican government, at no cost for the work center.

Development Fund 2025-2026:
This Fund is comprised by contributions from members of certain Entrepreneurial Organization of Mexico, and it seeks to promote economic growth by providing financing to micro, small and medium-sized enterprises.

Mexico Plan:
Recently, the Mexican President presented the Mexico Plan that is a strategy to attract investments and encourage local production through tax incentives and some financing plans. The final terms are yet to be approved.

Welfare Loan 2025:
The Welfare Loan 2025 of Financiera para el Bienestar was launched by the Mexican President, which is a governmental initiative to offer affordable credit to support low-income people, entrepreneurs and micro-entrepreneurs.

WHAT ELSE?

Requirements for identification of ultimate beneficiary owners have been recently heightened for, among others, incorporation of new companies. Thus, it has become more complicated to incorporate companies, particularly for foreign entities, which have a harder time evidencing chains of control up until the persons exercising such control.

Although we have found solutions for this problem, it may be relevant for start-ups, especially considering the multiplicity of their shareholders and their legal nature.



MONTENEGRO

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MONTENEGRO

LEGAL FOUNDATIONS

The legal system of Montenegro adheres to the **civil law**. According to the Constitution, all courts are obliged to adjudicate on the basis of the Constitution ratified and proclaimed international treaties and domestic laws.

Judical system in Montenegro consists of courts of general jurisdiction covering civil and criminal matters, and specialized commercial and administarive courts.

The courts of general jurisdiction are: basic courts, high courts, the Court of Appeal, and the Supreme Court.

The specialized courts are: the Commercial Court, Administrative Court and Misdemeanors Court.

The final appellate instance is the Supreme Court.

Montenegro sets EU integration as a priority and is preparing for full membership status. In that regard Montenegro have to comply with EU standards in the framework of the EU accession process.

CORPORATE STRUCTURES

The business activity organization and conduct in Montenegro is basically regulated by the Law on Business Entities (Official Gazette of the Montenegro no. 090/25, 121/25) according to which there is following modes of business organization possible to establish:

1. Entrepreneur,
2. Partnership,
3. Limited Partnership,
4. Joint Stock Company,
5. Limited Liability Company, and
6. Foreign Entity Branch.

Out of the above stated modes of business organization, taking into consideration our experiences, the foreigners are interested only for establishing “Limited Liability Company” and “Foreign Entity Branch”.

MONTENEGRO

CORPORATE STRUCTURES, CONT'D

Limited Liability Company ("LLC")

LLC is a form of business organization highly recommended to be established for various aspects, that is to say:

- It can be organized by foreign and domestic individuals and legal entities, equally;
- Founders are liable for the company's actions up to the amount of their equity in the company;
- There is no minimum number of founders and maximum is 30;
- Minimum amount of founding capital is 1,00 EUR, and there is no maximum;
- Registered founding capital must be fully paid, but also can be disposed of freely;
- There are no registered or bearer shares, but founders hold equities in the company;
- Company's obligatory bodies are Assembly and Director or Board of Directors;
- In a one-founder company, a Founder exercises all rights and obligations of the Assembly;
- Equities are not registered with the Securities Commission,
- Director can be only an individual, and not corporate structure;
- LLC gains the status of independent legal entity as of the date of its registration with Montenegrin Company Registry.

LLC is a form of business organization used most often by both domestic and foreign investors, mostly because of its independency and limited liability towards the Founder.

Foreign Entity Branch (Branch)

Foreign Entity Branch is the type of business organization used sometimes by the foreign investors, for the following reasons and with the following practical aspects, that is to say:

- Branch must be registered with the Montenegrin Company Registry;
- It must conduct business activity in full compliance with the Montenegrin regulations;
- All changes in the mother company, Branch must report with the Montenegrin Company Registry;
- Branch does not have a status of an independent legal entity,
- Branch has its Founder/Mother Company and Authorized Representative as equivalent to the Director in the LLC,
- Taking into consideration practical requirements of the state and municipality bodies, in all aspects of its function, Branch is equal to the LLC and requirements attached to the status of LLC.

MONTENEGRO

ENTERING THE COUNTRY

Foreign investor may be a foreign natural or legal person established abroad, a company with a share of foreign capital of over 25%, the Montenegrin citizen residing abroad for more than a year and the company established in Montenegro by a foreign entity.

Foreign investor:

- may establish a company (either alone or with other investors),
- invest in companies,
- buy a company or part of it,
- establish a part of a company;
- is taxed the same as domestic investors.

The share of foreign investors may be in cash, goods, services, property and securities.

Restriction for opening corporate bank accounts

In Montenegro, it is not possible to open any corporate bank account for companies registered in Montenegro if the founder of such company is a legal entity / company from an offshore destination or destination which is on black list of the Central bank of Montenegro. Therefore, it is important to check this before company registration, because such limitation does not exist for company registration, but it can disable the company's work.

INTELLECTUAL PROPERTY

After independence Montenegro joined WIPO in 2006 and IP regulations are developed in the proper manner and in accordance with EU regulations.

In 2022 Montenegro become member of the European Patent Organisation (EPO).

IP rights that can be registered with Montenegrin Intelectuall Office are:

Trademarks

Any mark that is used to distinguish goods and services in trade and that may be graphically presented shall be offered trademark protection. Marks subject to protection include the following: words, slogans, letters, numbers, images, drawings, combinations of colours, three-dimensional shapes, combinations of such marks and of graphically presentable musical notes.

Any natural or legal person may apply for the registration of a trademark in Montenegro. Foreign applicants in Montenegro enjoy the same rights regarding trademark protection as domestic applicants, should such rights derive from international treaties or the principle of reciprocity

Application for trademark registration can be filed either with the Montenegrin Intellectual Office, or the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The registration procedures before these offices slightly differ from each other, particularly as to costs.

INTELLECTUAL PROPERTY, CONT'D

Trademarks, CONT'D

The classification system applicable in Montenegro is the International Classification of Goods and Services under the Nice Agreement, containing 34 classes of goods and 11 classes of services.

The applications with the Montenegrin Intellectual Office have to be submitted along with list of goods and services. After publication of the trademark application in IP Gazette, it is possible for a third-party to file an opposition within 90 days following the date of publication in the IP Gazette.

The trademark lasts for 10 years from the date of filing of the application for registration, and is indefinitely renewable for further 10-year periods upon payment of prescribed administrative fees. A request for trademark renewal should be filed with the IP Office before the expiration of the current 10-year term. In the event of a trademark termination due to a failure to pay the prescribed fee, the trademark holder will have the exclusive right to request, within one year of the termination and subject to filing a new application, that the trademark be registered again in its name for the same goods and services.

Montenegrin IP Office charges the administration fee for trademark registration which depends from number of classes. Application costs for Montenegrin trademarks up to three classes are in total EUR 280 for verbal trademark and EUR 288 for figurative trademark.

Patents

A patent is a right recognized for any invention from any field of technology that: 1) is new; 2) has an inventive level, i.e., 3) is industrially applicable. The subject matter of an invention protected by a patent may be a product (ex. a device, substance, composition, biological material) or a process.

Any natural or legal person may apply for the registration and legal protection of an patent in Montenegro. Foreign applicants in Montenegro enjoy the same rights as domestic applicants, should such rights derive from international treaties or the principle of reciprocity.

Patent claim can be filed either with the Montenegrin Intellectual Office, or the European Patent Organisation or the World Intellectual Property Organization (WIPO). The registration procedures before these offices slightly differ from each other, particularly as to costs.

As Montenegro become a member of EPO in 2022, it is not possible to designate Montenegro retroactively in applications filed before October 1, 2022.

The term of patent protection shall be 20 years from the filing date of the application. Prescribed fees shall be paid for the maintenance of patent, which shall be paid in respect of the third year and each subsequent year, calculated from the date of filing of the application.

Montenegrin IP Office charges the administration fee for application which depends of the patent content (number of pages, pictures etc.).

INTELLECTUAL PROPERTY, CONT'D

Designs

The Law on Legal Protection of Industrial Design (Offical Gazzete of Montenegro no. 080/10 to 084/24) regulates the registration and legal protection of industrial design.

Industrial design shall be the appearance of the whole or a part of a product, resulting from its features, in particular the lines, contours, colors, shape, texture and/or material the product is composed of and its ornamentations.

Foreign legal and natural persons have rights with respect to design registration and legal protection in Montenegro equal to those of national legal and natural persons, if this results from ratified international agreements or from the reciprocity principle.

The protection of industrial design rights shall last for five years commencing from the application filing date and shall be subject to renewal periods of five years, not to exceed twenty five years.

The international industrial design registration shall be done in accordance with the Hague Agreement.

Montenegrin IP Office charges the administration fee for application which depends
Number of designs.

The following IP rights cannot be subject of registration with IP Office in Montenegro:

Copyright

Copyrighted work and subject matter of related rights work can't be register in the sense in which can be said about industrial property rights, but there is a possibility to log and deposit a copyrighted work and subject matter of related rights work with the competent Ministry. Until proven otherwise, it shall be presumed that the rights in registered works exist and belong to the person designated in such register as their holder.

Trade Secrets

Trade Secret are not recognised as an intellectual property in Montenegro. The protection of the trade secret is regulated by the Law on Protection of the Business Secret.

MONTENEGRO

DATA PROTECTION/PRIVACY

Processing of personal data is regulated by the Montenegrin Law on Personal Data Protection (Official Gazette of Montenegro no. 079/08 to 077/24) , which has not been aligned with the GDPR so far.

The Law on Personal Data Protection protects data subjects, i.e., natural persons who are identified or can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to physical, physiological, mental, economic, cultural, or social identity.

The main legal condition for data processing in Montenegro is consent of the person which data will be processed.

The Law prescribes the conditions under which data processing may be done without consent of the person, but only in cases of necessity specified by the law.

We would like to point out that numerous laws include provisions on the processing of personal data, as: Law on Electronic Communications, Law on E-commerce, Law on Patients Rights, Labor Law etc.

The Agency for Personal Data Protection and Free Access to Information performs affairs of a supervisory authority prescribed in the Personal Data Protection Law.

In Montenegro data controllers are required to notify Agency about each personal database which they establish.

International transfer of personal data is allowed without limitation only in EU/EEA countries, but for other countries it is required the consent of the Agency.
The Law on Personal Data Protection should be amended in accordance to the GDPR in near future.

ARTIFICIAL INTELLIGENCE

The Law on Innovation Activities (Official Gazette of Montenegro no. 082/20, 053/25) and the Law on Scientific Research Activity (Official Gazette of Montenegro no. 051/25) enable the performance of innovation activities and the development of innovations related to new technologies, and this law can be applicable to the AI field as well.

As the regulatory framework for AI has been established in the EU, competent authorities in Montenegro should take actions in order to comply with the Artificial Intelligence Act.

Montenegro follows development of the regulation of that area through participation in the work of the Committee for Artificial Intelligence of the Council of Europe which is focused to ensure that human rights, democracy and the rule of law are protected and promoted in the digital environment.

Due to the Stabilization and Association Agreement (SAA) through which Montenegro undertook to harmonize the country's legislation with EU regulation, Montenegro should adopt a regulation with the similar provisions prescribed in EU Artificial Intelligence Act

MONTENEGRO

EMPLOYEES/CONTRACTORS

Foreign entities should take into consideration that there are exists different regimes for employment of Montenegrin citizens and for employment of foreigners.

Montenegrin citizen can establish an employment relationship with conclusion of the employment agreement with employer, which stipulates their rights and obligation set forth by the Labor Law, general collective agreement or bargaining collective agreement.

Foreigner can work in Montenegro in accordance to Foreigners Law and Labor Law, which means that foreigner must to obtain permanent resident and work permit before entering employment agreement.

To foreigners will be issued a single permit for temporary residence and work, in the form of ID card with biometric data, which will serve as proof of legal residence, the right to work as an identification document.

The temporary residence and work permit may be issued for the employment of foreigner with 1 year validation and max 2-year extension; for seasonal employment of foreigner with 6-month validation; and for work of a seconded employee with 1 year validation period and max 2 years extension period.

Employer has obligation to register all employees at the Tax authority and to pay certain monthly amounts of contribution in accordance to the laws.

The Law prescribes Employment copyright work, which means that if an author has created a copyright work in the course of employment and in the execution of his work duties or following the instructions given by his employer it shall be deemed that all economic rights and other rights of the author to such work are, without limitations and exclusively, assigned to the employer for a term of five years from the completion of the work, unless otherwise provided by contract. Therefore, it is important with employment agreement to define the term in accordance to the employer needs.

Termination of the employment have to be in accordance to the law, and employee can in any time to terminate the employment agreement with termination notice, period. However, employer is entitled to terminate employment only in cases prescribed by the law and in practice it is very difficult, so it is important to have detailed employment agreement in order to predict unexpected situations that could make the termination more difficult.

The Labor Law prescribes also special protection and benefits for certain groups of employees (pregnant women, employees with disability etc.)

CONSUMER PROTECTION

Consumer protection is recognized by fundamental legal act of the State – Constitution, which prescribes that the State must protect consumer.

Beside Constitution, the main law that regulates consumer protection is the Law on Consumer Protection (Official Gazette of Montenegro no. 012/26). However, there are many of other laws that regulate consumer rights: Law on Contractual Obligations; Law o Internal Trade, Law on Electronic Commerce, Law on Electronic Communications, Law on Electronic Media, Law on International Private Law etc.

Consumer Protection Council was constituted in 2014 in Montenegro, with the aim to improve the protection of consumer rights.

The Law on Consumer Protection prescribes fines for companies in the event of violation of consumer rights from 3,000 to 20,000 euros.

MONTENEGRO

TERMS OF SERVICE

Terms of Service have to be in accordance to the law, and will be obliged only if it is previously presented to the consumer.

There is not specific provision that have to be inserted in online terms and services, other than usual provisions that follow similar type of contracts.

TAX/FUNDING

The national tax rates of Montenegro are the most competitive in Europe and based on a modern, flexible tax structure. Montenegro has signed many taxation treaties with countries on income and property that regulate double taxation, and there are more than 40 taxation treaties in force.

Taxes are payable in Montenegro by individuals and companies and are applicable to both residents and non-residents. The subject of taxation for a resident is income they generate in Montenegro and outside of Montenegro, whereas the subject of taxation for a non-resident is income they generate in respect of activities performed through a permanent place of business in Montenegro.

Taxable income comprises income from employment, business and professional income, investment income (dividends, interest and royalties) and income from immovable property.

Salaries and incomes of entrepreneurs are subject to progressive tax rates, which vary from 0% to 15% depending on the monthly salary/income amount.

Dividents, interest income, caital gains and income from immovable property are taxed at a flat rate of 15%.

Company income tax is also progressive with the tax rates between 9% and 15% depending on the annual income.

Value-added tax (VAT) rate in Montenegro is 21% with reduced tax rate of 7 % for certain suppliers (bread, milk, books, medicines etc.) and 0% for exemptions (export of goods, supply of gasoline for vessels in international traffic etc.). VAT is calculated and paid on a calendar-month basis.

Real-time fiscalization and electronic invoicing have been introduced in Montenegro as key components of its tax administration system.

Since January 1, 2024, a progressive tax rate applies to the real estate transfer tax depending on the estimated market value of the real estate.

Owners of the real estate in Montenegro are also required to pay annual property tax. The rate for annual property tax is proportional and amounts from 0,3% to 1,00% of the market value of the real estate. The amount can be increased in the case of secondary apartment up to 1,5% and for undeveloped land up to 5%.

TAX/FUNDING, CONT'D

Funding

Investment and Development Fund of Montenegro was established in 2010, with the purpose of encouraging and facilitating economic development of Montenegro through granting loans and extending guarantees, performing activities pertaining to the sale of capital in Fund's portfolio and other activities aimed at supporting economic development.

Investment and Development Fund of Montenegro has been transformed into the development Bank of Montenegro according the decision of the Government of Montenegro on the beginning of 2025.

It is expected that the Development Bank will play a key role in supporting economic growth and investment initiatives.

For more information please visit Razvojna banka Crne Gore A.D.

Beside the Development Bank, the Government of Montenegro has established the Innovation Fund of Montenegro in 2021 which will ensure the implementation of the innovation policy through the provision and implementation of funds to encourage innovative activities.

The Innovation Fund of Montenegro is a state umbrella organization that implements policies and initiatives for micro, small, and medium-sized business owners and facilitates the transfer of innovations from research and development organizations.

For more information please visit Home | The Innovation Fund

EU financial support to Montenegro is provided through the Instrument for Pre-accession Assistance (IPA).

For more information please visit Montenegro - financial assistance under IPA - European Commission.

WHAT ELSE?

Foreign investor:

- may establish a company (either alone or with other investors), invest in companies, buy a company or part of it, establish a part of a company.
- is taxed the same as domestic investors.

The share of foreign investors may be in cash, goods, services, property and securities.

Investment opportunities in Montenegro are:

- Political and monetary stability;
- Legal framework for investment reformed according to the EU;
- Favorable tax policy;
- Simple START UP;
- Liberal regime of foreign trade;
- The national treatment of foreign investors;
- A set of incentives established at national level, in form of tax exemptions, for investments in the northern part of the country and in newly established business zones;
- Investment incentives and subsidies given at local level in form of utility fees exemptions, favorable land rental/purchase price, reduction of property tax rate;
- Developed telecommunication infrastructure;
- No restrictions on profit, dividend or interests.

UBO register

The Ultimate Beneficial Owners Register has been established in line with the requirements of European law to increase transparency and prevent the abuse of the financial systems: for laundering money, for example, and for financing terrorism.

Companies, legal entities, associations, institutions, political parties, religious communities, artistic organizations, chambers, trade unions, employers' associations, foundations or other business entities, legal entities that receive, manage or allocate funds for certain purposes, foreign trust funds, foreign institutions or similar entities of foreign law, which receive, manage or distribute assets for certain purposes are required to register UBO.

Protection and promotion of foreigner investment

Montenegro has specific legislation that guarantees and safeguards for foreign investors.

In order to attract foreign investment, the Government of Montenegro established the Montenegrin Investment Agency.

In 2022 the Ministry of Economy Development in cooperation with the World Bank Group and state institutions completed the Investment Incentives Inventory with 51 investment incentives and with a comprehensive review of available financial and non-financial support programs for the private sector as well as domestic and foreign investors.

These investment incentives refer to different areas: financial; tax and customs incentives; excise taxes incentives and fees; incentives in agriculture; science; tourism and services; construction; sustainable and economic development subsidies; renewable and hybrid energy incentives etc.



MOZAMBIQUE

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MOZAMBIQUE

LEGAL FOUNDATIONS

Mozambique follows the civil law system. The law is primarily based on written statutes and codes. Court decisions are not formally binding as in common law systems, but higher court rulings may serve as guidance.

- **Public law** regulates the relationship between individuals and the State and includes constitutional, administrative, fiscal and criminal law. The Constitution (2004, revised in 2018) is the supreme law of the country.
- **Private law** governs relationships between individuals and companies and is mainly regulated by the Civil Code and other specific legislation (e.g. commercial and labour law).
- **Criminal law** is codified in the Criminal Code and the Criminal Procedure Code.

Mozambique is a unitary State divided into provinces and districts. The court system has three main levels: District Courts (first instance), Provincial Courts (first instance for more complex matters and appellate courts), and the Supreme Court (highest court of appeal).

There are also specialised bodies, such as the Administrative Court and the Constitutional Council. Commercial disputes, including those involving startups, are usually handled by the Provincial Courts, and arbitration is available.

MOZAMBIQUE

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

The Mozambican Commercial Code provides for several types of companies. The most relevant for startups are the following:

Limited Liability Company (Sociedade por Quotas, Limitada)

The Limited Liability Company (Lda.) is the most common and practical structure for startups in Mozambique due to its flexibility and simple governance:

- It requires a minimum of two and a maximum of 30 shareholders. A single-member limited liability company is also allowed.
- There is no statutory minimum share capital. The capital must be adequate for the company's business purpose.
- Shareholders' liability is limited to the value of their quotas.
- The company must have at least one manager and a shareholders' meeting.
- A supervisory body is not mandatory.

Advantages and disadvantages compared to a Public Limited Company (S.A):

ADVANTAGES

- Simple governance structure and lower administrative costs
- Flexibility in management
- No mandatory supervisory body

DISADVANTAGES

- Transfer of quotas may be subject to restrictions
- Less attractive for large institutional investors

Public Limited Company (Sociedade Anónima, S.A)

The Public Limited Company (S.A) is more **suitable for larger businesses** or companies seeking external or institutional investment:

- There is no statutory minimum share capital. The capital is divided into shares.
- Shareholders' liability is limited to the value of the shares subscribed.
- The company may be incorporated with a single shareholder.
- The governance structure must include General Assembly of Shareholders; Board of Directors (minimum of three members, odd number); Supervisory Body (Supervisory Board or Sole Auditor).
- Shares are freely transferable.

Advantages and disadvantages compared to a Limited Liability Company (Lda.):

ADVANTAGES

- No minimum share capital
- More attractive to investors
- Free transferability of shares
- More suitable for business expansion

DISADVANTAGES

- More complex governance structure
- Higher administrative and compliance costs

From a practical perspective, the Limited Liability Company (Lda.) remains the preferred structure for most startups due to its limited liability, flexibility and lower compliance requirements.

MOZAMBIQUE

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STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Mozambique has an Investment Law which applies to economic projects executed in the country, covering domestic and foreign investments, public-private partnerships, large-scale projects and commercial concessions. The Law introduces procedural simplifications and new incentives to attract foreign investment.

The majority of economic sectors are open to foreign investors, with restrictions only in sectors related to national security and sectors with preferential treatment for domestic investors. APIEX (Investment and Export Promotion Agency), established in 2016, is the government entity responsible for the promotion, attraction and facilitation of foreign direct investment, constituting the main point of contact for international investors.

Foreign investors must comply with several mandatory requirements, namely: establishing commercial representation in Mozambique; documenting community consultation efforts related to the project; presenting a topographic plan when the investment involves land use; and complying with environmental and social responsibilities.

INTELLECTUAL PROPERTY

The Industrial Property Institute (IPI), established under the Ministry of Industry and Commerce, is the entity responsible for overseeing the registration, regulation and protection of industrial property rights in Mozambique, including patents, trademarks, industrial designs and geographical indications.

Intellectual property registration in Mozambique can be carried out through three distinct routes: direct national registration with IPI; regional registration through ARIPO (African Regional Intellectual Property Organization), to which Mozambique is a member, allowing protection in multiple African member states with a single application; and international registration through the Madrid System of WIPO (World Intellectual Property Organization), of which Mozambique is a member, allowing international extension of trademark protection.

Trademarks

- Trademarks can be registered with the IPI, granting the holder the exclusive right to use the distinctive sign for the designated goods and services.
- Registration provides protection for periods of 10 years, renewable indefinitely upon payment of renewal fees.
- Registration through ARIPO allows protection in multiple African countries more economically than multiple national registrations, while the Madrid System enables the extension of protection globally.

Patents

- Patents are granted for inventions that meet the requirements of novelty, inventive step and industrial applicability, with a protection period of 20 years from the filing date, subject to payment of annual maintenance fees.
- Registration can be carried out directly at the IPI or via ARIPO through the Harare Protocol on Patents and Industrial Designs, which harmonises patent laws among member states.
- For startups with technological innovations, patent protection is essential to safeguard competitive advantage.

Industrial Designs

Industrial designs can be registered for the protection of the visual appearance of industrial or craft products, through the IPI at the national level or via ARIPO for regional protection.

MOZAMBIQUE

INTELLECTUAL PROPERTY, CONT'D

Copyright

- Copyright is protected by national legislation and does not require formal registration for protection. Protection is automatic upon creation of the work, covering literary, artistic, musical and software works.
- The holder possesses moral rights (non-transferable) and economic rights (transferable), the latter of which may be licensed or assigned to third parties.

Trade Secrets

Mozambique does not have specific legislation dedicated to trade secrets. However, protection can be obtained through confidentiality agreements and civil law provisions on contractual and extra-contractual liability.

DATA PROTECTION/PRIVACY

Mozambique does not, to date, have specific and comprehensive legislation dedicated to personal data protection, unlike the European Union with the GDPR (General Data Protection Regulation). However, there are relevant provisions scattered across various legal instruments that provide some degree of protection.

The Constitution of the Republic of Mozambique enshrines the right to privacy as a fundamental right of citizens, protecting the inviolability of correspondence and communications.

The Criminal Code contains provisions on the secrecy of correspondence and communications, criminalising the violation of privacy and unauthorised access to personal data in certain circumstances.

In practice, and until the adoption of specific legislation, startups operating in Mozambique should adopt a preventive approach: obtaining clear and informed consent from users for the collection and processing of personal data; implementing reasonable and proportional data security measures.

ARTIFICIAL INTELLIGENCE

Mozambique does not currently have specific legislation or a regulatory regime dedicated to Artificial Intelligence. AI remains fundamentally unregulated in the country, with no formal national AI strategy or designated authority for the supervision of AI systems.

MOZAMBIQUE

EMPLOYEES/CONTRACTORS

General
The employer and the employee must conclude an employment contract, in order to have an employment relationship, in writing, in terms of the Article 39 paragraph 2 of the Law No.13/2023, of 25 August (Labour Law). There are no collective employment contracts.

The main hiring regimes are fixed term or permanent contracts. Foreign employees can only be hired through fixed-term employment contracts. There are no specific legally mandated recruitment procedures, employers are to conduct pre-hire checks, with respect to the protections of privacy, confidentiality and violation against personality rights.

Mandatory policies requirements for medium sized and large sized employers (employers with more than 30 employees).

Restrictive covenants applicable with limitations
In the case of hiring foreign employees, there is a quota system, in addition, it is necessary the prove that the employee possesses the necessary academic or professional qualifications, and their admission may only take place if there are no nationals who possess such qualifications or if their number is insufficient, with the exception of the partners, directors, and representatives of the Company/Organization, as established in Article 3 (1) of Decree No. 88/2024 of 17 December, which approves the Regulations on Mechanisms and Procedures for the Hiring of Foreign Nationals.

The interests of the employees may be represented by a union committee or, in the absence thereof, by the trade union association of the sector of activity of the employer.

Subject to limitations established in the law, a Company/Organization may also offer a contractor agreement (service provision contract) instead of an employment agreement.

For these contracts, the provisions of labour law do not apply, thus this contract is regulated by the Decree-Law no. 47344, of 25 November 1966, in force in Mozambique through Edict no. 22869, dated 4 September 1967, as amended, which approves the Civil Code ("Civil Code") or by the Decree-Law No. 3/2022 of 25 May, which approves the Legal Regime of Commercial Contracts, in case of commercial relationship

Work for hire regime
There is no work for hire regime in Mozambique.

Registration with social security
Every employer must register their employees with the National Social Security System. The social security system contribution tax is 7% overall, with 4% paid by the employer and 3% by the employee, in accordance with Article 1 and 2 of the Decree No.4/90, of 13 April. Foreign employees may be exempt from social security when they are covered by social security system of another country, as established in Article 4 of the Decree No.56/2024, of 30 August. which approves the Mandatory Social Security Regulation.

Termination
Termination must follow any of the forms legally established in accordance with Article 135 of the Labour Law:

- Expiry;
- By an agreement;
- Cancellation by either of the parties;
- Rescission by either of the contracting parties is based on just cause.

Unilateral termination by the employer can only occur for just cause, except during probationary period.

Summarily termination of employment contracts and termination with notice without cause are not allowed and create risk of litigation.

During the probationary period both parties may cancel the employment contract without invoking just case and without the right of severance.

The employer is strictly prohibited to terminate employment contract of an employee during pregnancy, puerperal phase and lactation, up until one year after the end of the maternity leave, except for expiry and dismissal, as indicated in Article 13 of the Labour Law.

The termination by dismissal must be proceeded by a disciplinary process, in accordance with Article 64, paragraph 4 of Labour Law.

MOZAMBIQUE

CONSUMER PROTECTION

Mozambique has a **Consumer Defence Law**, under which consumers enjoy comprehensive fundamental rights including: the right to quality of goods and services consumed; the right to adequate information and education about products and services; the protection of health, safety and economic interests; the right to compensation for patrimonial and non-patrimonial damages; access to legal protection and accessible and expeditious justice; and protection against misleading advertising and unfair commercial practices.

The law provides for various mechanisms for the protection of consumer rights, including individual action, collective action, administrative complaint to the competent authorities, and recourse to mediation and arbitration.

For startups operating in Mozambique, it is essential to ensure: the clear and complete disclosure of information about products and services, including prices, features and conditions; clear, fair and easily accessible terms and conditions; adequate refund and return policies in compliance with the law; accessible customer service contact; and compliance with the quality and safety standards applicable to the sector of activity.

TERMS OF SERVICE

The Law of Electronic Transactions (Law No. 3/2017 of 9 January) constitutes the main legal framework for electronic transactions in Mozambique, regulating electronic commerce and the security of information technology users.

Online terms of service must mandatorily include: clear identification of the service provider entity, including corporate name, registered office, contacts and commercial registration number; a description of the rights and responsibilities of the platform and users; dispute resolution procedures; limitations of liability; user obligations; privacy and data protection policies; and clear and complete information about the prices and costs associated with the service, including applicable taxes.

The National Institute of Information and Communication Technologies (INTIC) is the regulatory entity responsible for monitoring online activities, ensuring legal compliance and promoting awareness of electronic commerce regulations.

TAX/FUNDING

The relevant tax regulations for investors in Mozambique are the following:

- Investment Law (approved by Law No. 8/2023, of 09 June);
- Regulations of the Investment Law (approved by Decree No. 8/2024 of 07 March);
- Fiscal Benefits Code (approved by Law No. 4/2009 of 12 January);
- Fiscal Benefits Code Regulations (approved by Decree No. 56/2009, of 7 October);
- Corporate Income Tax Code, approved by Law No.34/2007, of 31 December, as subsequently amended by Law No. 20/2009, of 10 December, Law No. 04/2012, of 23 January, Law No. 19/2013, of 23 September, Law No. 20/2022, of 30 December and Law No. 12/2025, of 29 December;
- Personal Income Tax Code, approved by Law No.33/2007, of 31 December as subsequently amended by Law No. 19/2017, of 28 December, Law No. 20/2013, of 23 September and Law No. 11/2025, of 29 December.
- VAT Code, approved by Law No. 32/2007 of 31 December ("VAT Code") and republished by Law No. 13/2016, of 30 December, as subsequently amended by Law No. 22/2022, of 28 December, Law No. 3/2025, of 21 May and Law No. 10/2025, of 29 December;
- Petroleum Operations Tax Law ("POTL") approved by Law No. 27/2014 of 28 December, as subsequently amended and republished by Law 14/2017 of 28 December;
- Mining Operations Tax Law ("Mining Tax Law") approved by Law No. 28/2014 of 28 December, as subsequently amended and republished by Law 15/2017 of 28 December;
- Stamp Duty Code, approved by Decree No. 6/2004 of 1 April, as subsequently amended by Decree No. 38/2005 of 29 August;
- Municipal Tax Code approved by Law No. 1/2008 of 16 January;
- Customs Tariff and its Preliminary Instructions approved by Law No. 11/2016, of 30 December, as subsequently amended by 17/2022 of 29 December and Law No. 08/2025 of 29 December;
- Customs Clearance Regulations for Goods approved by Ministerial Diploma No. 16/2012 of 1 February as subsequently amended by Ministerial Diploma No. 51/2019, of 24 May;
- Industrial Free Zones approved by Decree No. 62/1999 of 21 September, as subsequently amended by Decree No. 35/2000;
- Fiscal and Customs Regime applicable for Economic Special Zones and Industrial Free Zones approved by Ministerial Diploma No. 202/2010 of 24 November.

Shall consider the following:

Relevant taxes to be considered by the investors

Corporate Income Tax

Companies incorporated or with Permanent Establishment (PE) in Mozambique are subject to Corporate Income Tax (CIT) on their worldwide taxable income obtained in Mozambique and outside the country. The general tax rate applicable is 32%, as per the Article 61 (1) of the Corporate Income Tax Code (CIT Code), approved by Law No.34/2007 of 31 December, as subsequently amended. Non-residents without PE are taxed through definitive withholding tax at a single flat rate of 20%, except for income from (i) rendering of international telecommunications and transport services, as well as assembly and installation of the equipment made by such entities, (ii) charter of boats for fishing and costal shipping activities, (iii) construction and rehabilitation of infrastructures of production, transport and distribution of electricity in rural areas, in public projects, and (iv) digital services, which are taxed at the rate of 10% rate, according to article 62 (2)(3) and (4) of the CIT Code.

In cases where a Double Taxation Agreement is in place between Mozambique and the country of residence of the entity that will receive the income, the withholding tax rate provided for in the Corporate Income Tax Code may be reduced or eventually eliminated, depending on the nature of the transaction/payments and the terms of the agreement. In addition, kindly note that Mozambique has entered into Agreements for Avoidance of Double Taxation and Tax Evasion with the following countries: Portugal, Mauritius, United Arab Emirates, Italy, South Africa, Macau, Botswana, India and Vietnam.

Regarding the capital gains tax, the general rate applicable is 32%, according to the article 61-A of the CIT Code.

TAX/FUNDING, CONT'D

Value Added Tax

According to the article 1(a)(b) of the Law No. 32/2007 of 31 December, that approves the VAT Code (VAT Code), as subsequently amended, VAT is levied on the (i) supply of goods or (ii) services, carried out in the national territory by a taxpayer acting as such and, in any case, on (iii) the importation of goods. The general VAT rate is 16%, as per the article 17 of the VAT Code; however, a reduced rate of 5% is applicable, as per Article 17-A of the VAT Code, for the following:

- Medical and health services, and closely linked services, supplied by private hospitals, clinics, dispensaries and the like, including the supply of related goods and services;
- Educational services provided by private establishments integrated in the National Education System and recognized by the Ministry of Education, including the supply of related goods and services;
- Training services, along with the supply of related goods and services, such as accommodation, food, and teaching material, when carried out by private entities; and
- Private lessons taught on school or higher education subjects.

Under Article 9 of the VAT Code, VAT exemptions also apply to various supplies, including in the sectors of public medicine, agriculture, forestry and fisheries, certain foodstuffs such as maize, certain fuels, public education, banking, finance and insurance (when subject to stamp duty), and residential leasing.

Beyond the above taxes, the following are also taxes applicable in Mozambique:

1. Personal Income Tax (IRPS);
2. Simplified Tax Regime for Small Taxpayers (Imposto Simplificado para Pequenos Contribuintes or "ISPC");
3. Excise Duty (ICE);
4. Customs Duties;
5. Stamp Duty;
6. Real Property Transfer Tax;
7. Specific taxes for oil & gas and mining sectors.

Kindly note that there are also municipal taxes applicable to investors.

Additional considerations

The companies should comply mainly with the following obligations:

- Submitting declarations for tax registration, commencement of activities, any subsequent changes, and cessation of activities;
- Submitting the annual tax return M22 (declaração de rendimentos) which is due by the last working day of May of the following year with respect to the income in case the company follows the civil year taxation period.
- Submitting the M/39 regarding the withholding tax relating to the services provided by other entities, for which the tax must be borne by the counterparties;
- Withholding the IRPS of the employees and submitting the M/19 relating to the withholding tax on the salaries of employees and other individuals;
- Submitting the M/20 Accounting and Tax Information Return (Declaração Anual de Informação Contabilística e Fiscal) by the last working day of June (for entities that follow the civil year as their taxation period).
- Submitting monthly VAT returns (M/A);
- Maintaining the fiscal documentation for 10 years.

TAX/FUNDING, CONT'D

Incentives for investments in Mozambique

According to the investment legislation, private investments (namely national and foreign investment, public-private partnership ventures, large-scale projects and business concessions) may be eligible to enjoy tax and non-tax incentives, as per the article 1, read together with article 2 (1) (a) of the Investments Law, approved by Law No. 8/2023 of 9 June.

The Fiscal benefits Code provides for a general scheme of tax and customs incentives and special (and usually more attractive) schemes for strategic areas Companies with authorized Investment Project can enjoy the following general tax and customs benefits provided for in the Fiscal Benefits Code:

1. Exemption from VAT and customs duties on importation of equipment's that belong to the class "K" of the Mozambican Customs Tariff;
2. Tax credit for investment - deduction of 5% (for the investments realized in Maputo City) or 10% (for the investments realized in other provinces) of the total investment realized from the amount of the assessment of Corporate Income Tax, during five (5) financial years;
3. Deduction to the taxable income subject to CIT up to the maximum limit of 10% during the first five (5) tax years, counting from the beginning of operations for the modernization and introduction of new technologies for the development of the activities of the project;
4. Deduction of the taxable income subject to IRPC up to the maximum limit of 5% during the first five (5) tax years, counting from the beginning of operations, for the investments made with the professional training of the Mozambican employees;
5. Possibility of deductible expenditure for the purpose of calculation of CIT of about 110% for the investments realized in Maputo City) or 120% (for the investments realized in other provinces), of the expenditures in construction and rehabilitation of roads, railways, airports, mail delivery, telecommunications, water supply, electric energy, schools, hospitals and other works that are considered to be public utility during the five (5) financial years counting from the date the exploration activities of the company begins.

For the projects that fall under the special schemes, there may be broader exemption on import duties and VAT, reductions on corporate income tax rates and industrial free zones and special economic zones regimes.

Note that the incentives may vary depending on the nature and scale of the projects.

Tax and Customs incentives/benefits shall only be enjoyed in the first five years of the investment project implementation.

It is worth to mention that foreign investor, independently from the nationality, has the same rights and is subject to the same duties and obligations as the national investor is, as per the article 4 (b) and 6 (1) of the Investment Law.

For the purposes above, investors may apply for investment project to operate in different sectors such as industry, services, tourism, agriculture, fishery, hostelry, and public sector areas such as the production of electricity, the supply of water, and telecommunications.

It is worth to mention that the minimum amount of foreign direct investment is MZN 6.500.000,00, for the purposes of transferring profits abroad and for the repatriation of invested capital, as per the article 4 (1) of the Regulations Private Investments Law.

Kindly note that there is a specific regime applicable for companies that intend to dedicate to petroleum and mining operations. These regimes are regulated by the Petroleum Operations Tax Law (POTL), approved by Law No. 27/2014, amended and republished by Law No. 14/2017 of 28 December as well as the Mining Operations Tax Law approved by Law No. 28/2014, amended and republished by Law No. 15/2017 of 28 December. According the POTL and the Mining Tax Law, companies my enjoy the following incentives/benefits:

- Exemption from customs duties on the import of equipment intended to be used in petroleum operations, classified under Class K of the Customs Tariff Schedule;
- Exemption from customs duties on the import of goods listed in Annex II of the POTL and Mining Tax Law, treated as equivalent to Class K goods of the Customs Tariff.
- 10% withholding tax on CIT also applies.

TAX/FUNDING, CONT'D

Incentives for investments in Mozambique, CONT'D

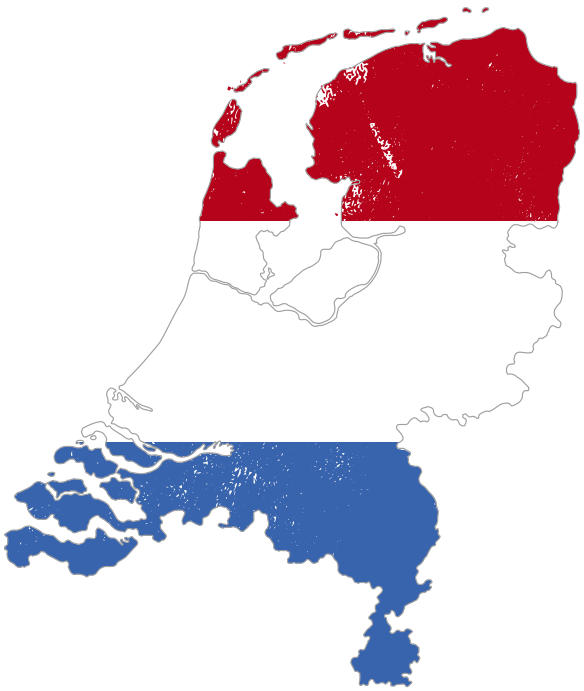
These tax and customs incentives are extended to Subcontractors of the concessionaires, according to specific contracts. Please note that, to benefit from customs incentives, investors must request approval from the Customs Authority by submitting an application accompanied by a list of the goods to be imported.

Relevant links: https://www.apiex.gov.mz; https://www.at.gov.mz

WHAT ELSE?

1. **Licensing of Activities:** Mozambique has significantly simplified licensing requirements in recent years, expanding the number of commercial activities that can be started without a specific licence, through a simplified online notification process. However, all import and export activities require a licence from the Ministry of Industry and Commerce, as well as specialised activities in the sectors of healthcare, education, telecommunications, energy, mining, transport, financial services, insurance and tourism, which require specific licensing from the respective supervisory entities.
2. **Anti-Corruption:** Mozambican legislation criminalises corruption, bribery and embezzlement. Foreign entities must ensure compliance with national anti-corruption legislation and, where applicable, with extraterritorial anti-corruption legislation of their home countries.

In summary, despite regulatory challenges, Mozambique offers an increasingly favourable environment for foreign investment, with significant incentives, particularly in Special Economic Zones, and a legal framework in continuous modernisation. Consultation with qualified local legal professionals is essential to ensure full compliance with the legislation in force and to effectively navigate the Mozambican regulatory environment.



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LEGAL FOUNDATIONS

Civil law is the legal tradition followed by the Netherlands. Hence, the Netherlands relies on codified legislation which is mostly created by the central government in cooperation with the parliament (so-called acts of parliament or wetgeving in formele zin). Legislative powers may be delegated to lower public authorities through said acts of parliament.

The Dutch law can be divided in two global categories: public law and private law. Public law concerns the relationship between citizens and/or businesses and the government (if the government is acting as such). Private law, on the other hand, governs the relationship between citizens and/or businesses and other citizens and/or businesses. The main source of private law is the Dutch Civil Code (Burgerlijk Wetboek or BW).

Although codified law forms the core of Dutch law, it is challenging to fully understand many fields of law without taking relevant case law into consideration. Notably, final decisions by e.g. the Dutch Supreme Court (Hoge Raad) are often referred to by lower courts.

CORPORATE STRUCTURES

In the Netherlands, there are business structures with and without legal personality. The following structures without legal personality exist:

- Sole proprietorship (eenmanszaak)
- General partnership (vennootschap onder firma or vof) Public partnership (maatschap)
- Limited partnership (commanditaire vennootschap or CV)

In fact, these structures consist solely of one or more natural persons. From a fiscal point of view, a start-up often opts for a business structure without legal personality. From a legal point of view, this is not recommended. In a business structure without legal personality, the owners of sole proprietorships and partnerships can be held personally liable for debts and damages of the sole proprietorship or partnership, because business structures without legal personality cannot be independent bearers of rights and obligations. Therefore, it is recommended to opt for a business structure with legal personality. Business structures with legal personality can independently bear rights and obligations.

CORPORATE STRUCTURES, CONT'D

Below is a short explanation of the most used business structures with legal personality:

Private limited company (besloten vennootschap or bv)

The Dutch private limited company is the most common used business structure with legal personality in the Netherlands. There are several legal requirements that must be met in order to set up a private limited company, namely:

- Draw up articles of association in a notarial deed for its incorporation;
- Make a deposit of (cash or in kind) minimum EUR 0,01 starting capital;
- Registration in the Dutch Business Register (Handelsregister)
- Registration at the Dutch Tax Authorities (Belastingdienst).

The registration in the Business Register and the registration at the Tax Authorities are usually carried out by a civil law notary.

Public limited company (naamloze vennootschap or nv)

The other company with legal personality in the Netherlands is the public limited company. Similarly to the BV, the NV requires a notarial deed containing articles of association, a registration in the Dutch Business Register and starting capital of at least EUR 45.000. Due to this high initial capital investment, an NV tends to be a larger company. Thus, this is probably not the most attractive legal structure for a start-up company.

ENTERING THE COUNTRY

The Dutch Investments, Mergers and Acquisitions Security Screening Bill (Wet veiligheidstoets, investeringen, fusies en overnames (Vifo Act)) came into force on the 1st of 2023. It introduces a general foreign direct investment (FDI) screening regime for investments, mergers and acquisitions in critical sectors of the Dutch economy, as they might pose a threat to the national security. In December 2025 the Council and European Parliament representatives reached a provisional political agreement on revising the FDI Regulation. It is however the current understanding that the revised FDI Regulation will not have a major impact due to the way the Vifo Act is formulated.

The Vifo Act is based on Regulation (EU) 2019/452, which established a framework for the screening of FDI reviewing within the European Union, by introducing a minimum standard for EU-level screening. It relates to investment and acquisition activities in Dutch so-called 'targeted' companies by both EU and non-EU investors. These targeted companies are either (i) vital providers, (ii) companies that are active in (highly) sensitive technologies and/or (iii) companies that operate business campuses. A non-exhaustive list of categories of vital providers can be found in the Act, which includes providers in the field of transportation of heat, nuclear energy, air transport, ports and banking. Other categories of vital providers may be designated by future Order in Council(s) (AMvB). It is probable that the number of technologies for which a safety test is required will be expanded with the following technologies: biotechnology, artificial intelligence, advanced materials and nanotechnology, sensor and navigation technology and nuclear technology with medical use.

The Vifo Act applies to investment activities that result in an acquisition of control, or the acquisition or increase of significant influence in case of target companies active in highly sensitive technology. Targeted companies and their possible acquirers together have the duty to report notifiable investment activities to the Bureau for Verification of Investments (Bureau Toetsing Investeringen (BTI)), after which the activities will be assessed.

During the review, the BTI assesses if the activities pose a threat to the national security. In the context of the Act, national security includes maintaining the continuity of vital processes, preserving the integrity and exclusivity of information of critical or strategic significance for the Netherlands and preventing undesirable strategic dependencies of the Netherlands on other nations. After the security screening, a decision about the approval or the prohibition of the investment activities is made by the Minister.

ENTERING THE COUNTRY, CONT'D

The Vifo Act has a retroactive effect, meaning that the rules of the Act may be applicable to transactions completed between the 8th of September 2020 and the 1st of June 2023. The Dutch Minister can request parties to submit a notification of these investment activities until the 1st of February 2024.

Furthermore, there is the Foreign Subsidies Regulation (FSR) to keep in mind. The FSR entered into force on 12 January 2023, empowering the European Commission to address distortive subsidies granted by non-EU governments that affect the EU internal market, particularly in M&A transactions and public procurement.

The FSR applies to "foreign subsidies," meaning financial contributions (such as capital injections, loans, guarantees, tax benefits, debt relief, or the supply of goods and services) granted directly or indirectly by non-EU countries that confer a selective advantage on companies active in the EU.

There is no general prohibition; the Commission assesses case by case whether a subsidy distorts competition, considering factors such as amount, purpose, and market impact.

Concentrations must be notified if (i) an EU-established party generates at least €500 million EU turnover and (ii) the parties received over €50 million in foreign financial contributions in the past three years. A standstill obligation applies, with fines up to 10% of global turnover for non-compliance.

In public procurement, notification is required where the contract value is at least €250 million and the bidder received at least €4 million per third party country in financial contributions over three years.

The Commission may also investigate non-notifiable transactions and conduct ex officio reviews, including post-closing, and can impose remedies, prohibit transactions, or block contract awards following a Phase 1 or in-depth Phase 2 investigation.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign can be registered as a trademark if it is capable of being represented in a register in a clear and precise manner and has theability to distinguish goods and services of one company from another company.

Where to apply? Trademarks may be filed with the Benelux Office for Intellectual Property (BOIP), if protection is sought within the three Benelux countries (Belgium, the Netherlands and Luxembourg). An international trademark registration may be requested via the (i) European Union Intellectual Property Office (EUIPO) or (ii) the World Intellectual Property Organization (WIPO) under the Madrid System. An application for trademark registration may be filed with the BOIP via its online platform. Once the application is received, the BOIP will review whether the minimum requirements for trademark registration are met, and publish the application to provide the public with an opportunity to oppose the application within the first two months following publication. The trademark will be registered if no opposition is filed or if an opposition has been decided in the applicant's favor.

Duration of protection? A trademark registration remains valid for a period of ten years, if no opposition is filed. It can indefinitely be renewed every ten years by payment of a renewal fee.

Costs? Application costs for Benelux trademarks are EUR 244.- for the first class of goods or services (EUR 27.- is charged for an additional second class and EUR 81.- per class from third class onwards). Click here for a current overview.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Inventions in all fields of technology which are new, involve an inventive step and that are susceptible of industrial application shall be patentable. Computer programs are explicitly not regarded as an invention within the meaning of Dutch Patent Act (Rijksoctrooiwet 1995). Software may be patented if the software qualifies as a technological innovation.

Where to apply? Patent protection is limited to the country in which the patent is registered. Therefore, an applicant must register the patent in each country where protection is sought. Accordingly, should protection in the Netherlands be sought, a patent application will need to be filed in the Netherlands. To file a patent in the Netherlands, there are three possible options, namely file a patent application at the Dutch Patent Office (Octrooicentrum Nederland), at the EPO or at WIPO (a so-called PCT patent application).

When a patent application is filed at the Dutch Patent Office, a search into the prior art will be performed to determine whether the patented invention is new, inventive and has industrial applicability. However, a Dutch patent will be granted irrespective of the outcome of this search. An applicant may elect either the Dutch Patent Office or the EPO to perform the search.

Duration of protection? The term of protection is a maximum of 20 years from the date of application onward and must be maintained through payment of annual renewal fees. The duration of a patent protecting a medicinal or plant invention, may be extended by means of a Supplementary Protection Certificate (aanvullend beschermingscertificaat (ABC)). This provides a patent holder with up to 5 years of additional patent protection following the 20-year duration.

Costs? Application fees for a Dutch patent are EUR 80.- (filed digitally - eOLF) or EUR 120.- (filed physically). Additionally, a mandatory search into the state-of-the-art costs EUR 100.- at national level or EUR 794.- at international level (EPO). Moreover, annual maintenance fees must be paid every year starting from the fourth year. Click here for a current overview.

Employee invention and inventor bonus? The Dutch Patent Act states that an employee who creates an invention is initially entitled to the patent, unless the nature of the employee's job is to make inventions of the type embodied in the patent application. In those circumstances the employer is entitled to the patent. In the event that the employer is entitled to the patent and the employee is not deemed to have been sufficiently compensated, the employer will be obliged to grant equitable remuneration to the employee. The amount of this remuneration shall depend on the pecuniary importance of the invention and the circumstances under which the invention was created.

Enforcement in Europe? Since 2023 there are two routes available for enforcement of a patent, depending on the patent.

The first route is where the patent is a national patent. In such a case proceedings must be instituted at national level, for example at a Dutch court.

The second route is where the patent is a unitary patent, meaning it has not been opt-out of the Unified Patent Court (UPC). The UPC has 17 European member states and has exclusive jurisdiction for infringement and invalidity proceedings in respect of a unitary patent. The UPC allows for a single court to make a decision on a matter, which will be valid in all UPC member states. Therefore, it is no longer necessary to litigate on the same matter in each member country where you wish for a decision. Both a national Dutch patent and a European patent will be deemed to be a unitary patent, unless it is expressly opt-out of the UPC.

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? A design relates to the appearance of a product or part of a product. A design shall be protectable if it is new and has individual character.

Where to apply? Designs may be filed at the Benelux Office for Intellectual Property (BOIP), if protection is sought within the three Benelux countries (Belgium, the Netherlands and Luxembourg). An application for registration may be filed at the BOIP via its online platform. In order to obtain protection within the European Union, an EU design may be registered with the EUIPO. The Benelux is party to the Hague Agreement which regulates the international registration of designs. As a result, it is possible to obtain protection in all or some of the treaty member states through an international application. An international application is filed directly with the WIPO.

Duration of protection? A design shall be registered for a term of five years and may be renewed for four successive periods of five years by paying the renewal fee. Thus, the maximum term of protection is 25 years.

Costs? Application costs for a Benelux design registration amount from EUR 150.- A renewal of a registration amount from EUR 102.- Click here for a current overview.

The following IP rights cannot be registered:

Copyright

What is protectable? The Dutch Copyright Act (Auteurswet) protects the copyright of works of literature, science or art. A prerequisite for protection is that the work has its own original character and bears the personal mark of the author. Copyright protection is granted immediately and automatically upon creation of a work.

Duration of protection? Copyright protection expires seventy years after the author has passed away.

Exploitation of copyright protected work? Copyright owners have the exclusive right to publish and reproduce the work. The author may however grant third parties a license, in whole or in part, to use the work.

Trade Secrets

What is protectable? Trade secrets include information (i) that is secret, (ii) that has commercial value due to its classified nature and (iii) the party entitled to this information has taken reasonable measures for this information to remain secret. It thus covers a wide range of information, including technological knowledge ('know-how'), customer and supplier lists, market research results, and market strategies. Trade secrets may be, but are not necessarily, protected by intellectual property rights.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

Since the 25th of May 2018 the General Data Protection Regulation (GDPR) is directly applicable in the Netherlands. The GDPR leaves gaps with respect to national choices, which are addressed in the Dutch GDPR Implementation Act (Uitvoeringswet Algemene verordening gegevensbescherming or UAVG).

Relevant clauses in the Dutch Implementation Act are summarized as follows:

- The prohibition on automated individual decision-making does not apply if this decision-making, other than on the basis of profiling, is necessary to comply with a legal obligation incumbent on the controller or is necessary for the performance of a task carried out in the public interest.
- The controller may disapply its obligations and/or the data subject rights to the extent necessary to enforce certain societal interests as specified in article 41 UAVG.
- The obligation to notify data subjects of a personal data breach does not apply to financial undertakings as defined in the Financial Supervision Act (Wet op het financieel toezicht); however, such controllers remain required to report personal data breaches to the Dutch Data Protection Authority.
- Some provisions shall be inapplicable if the processing of personal data is exclusively used for journalistic purposes or for the sole purpose of academic, artistic or literary expression.
- Some provisions shall be inapplicable if the processing of personal data is carried out by institutions or services for scientific research or statistics, and if appropriate measures are put in place to ensure that personal data is used only for statistical or scientific purposes.
- Some provisions shall be inapplicable if the processing of personal data is recorded in archival documents of public interest as referred to in the Archives Act 1995 (Archiefwet 1995).
- An number prescribed by law to identify a person shall only be used in the processing of personal data for the implementation of the relevant law or for purposes required by law. An Order in Council (AmvB) may designate situations other than those referred to in the first paragraph in which these numbers may be used and also under which circumstances.
- Some provisions shall not apply to public registers established by law, if a special procedure for the correction, supplementation, deletion or blocking of data is regulated by that law.

The Dutch Data Protection Authority (Autoriteit Persoonsgegevens) is the authority that supervises the processing of personal data in order to ensure compliance with laws that regulate the use of personal data.

Finally, there is an ongoing reform initiative ('Verzamelwet Gegevensbescherming') intended to update and clarify parts of the UAVG (e.g., minors' rights, procedural points, and enforcement). This has been discussed in the Netherlands but is not yet law.

ARTIFICIAL INTELLIGENCE

There is currently no separate standalone national AI law in the Netherlands beyond the directly applicable EU Artificial Intelligence Act (AI Act). Enforcement of the AI Act in the Netherlands will be carried out by designated national supervisory and market surveillance authorities, with the Dutch Data Protection Authority (Autoriteit Persoonsgegevens) playing a key role, particularly where AI systems involve the processing of personal data. In addition, general restrictions under Dutch law, especially those arising from data protection and copyright legislation, apply to the development and use of AI systems.

- The principles of data protection law, including the restrictions on automated individual decision-making under Article 22 GDPR, must be respected during the development, testing and operation of AI. Decisions producing legal or similarly significant effects for individuals may not be based exclusively on automated processing unless one of the GDPR exceptions applies and appropriate safeguard, including meaningful human intervention, are in place. A process may qualify as solely automated where an organisation relies on AI-generated outputs without substantive human review and assessment.
- National copyright law is particularly relevant for generative AI. This applies to both (i) the input data (especially web scraping) and (ii) the output of the specific AI application. The retrieval of data from the internet into sets of training data may constitute acts of reproduction in a manner which is regulated by the Dutch Copyright Act ("Aw"). A The text and data mining exception under Article 15o Auteurswet permits such use unless the rightholder has expressly reserved their rights to such retrieval (for example, via machine-readable resources for a work which is made available online). With regards to research organizations and cultural heritage institutions carrying out text and data mining for the purpose of scientific research, such reservations do not apply pursuant to Article 15n Auteurswet. In such case, the output of AI may infringe the rights of the author of the original if the output is identical to or resembles the original source.
- The Dutch Data Protection Authority and other authorities form part of the national enforcement and market surveillance architecture for the AI Act in the Netherlands.
- The Dutch government is establishing a national supervisory framework to designate competent authorities and determine sanctions to implement the AI Act enforcement mechanisms. Existing sectoral regulators (e.g., consumer, financial, digital infrastructure) may exercise supervisory powers depending on the nature and risk category and context of the AI system.

Moreover, for start-ups it is worth noting that various public funding programmes and innovation initiatives are available for AI-based business models in the Netherlands.

EMPLOYEES/CONTRACTORS

General

In the Netherlands, people work based on an employment contract. This employment contract is preferably concluded in writing, but this is not required. Employees may enter into a temporary or permanent employment contract with an employer. A temporary contract ends by operation of law. The first contract with an employee may include a probationary period of 1 or 2 months.

Subject to exceptions in collective bargaining agreements (Collectieve Arbeidsovereenkomst or CAO) (which apply to an entire industry), three temporary contracts may be entered into for, at most, a combined period of three years.

Agreements can be made with employees about the number of working hours. A full-time employment contract in the Netherlands often comes down to a 36- to 40-hour work week. Part-time employment or employment as an on-call worker is also possible. In addition, the Netherlands has a minimum wage and a minimum number of vacation days.

Arrangements can be made with an employee that, subject to certain conditions, the employee may not work for a competitor or a relation of the employer after their employment ends.

A company may also offer a contractor agreement (freelance contract or contract for work and services) instead of an employment agreement. For these contracts, some protective provisions of labour law do not apply. As of 1 January 2025, the Dutch tax authorities are fully enforcing measures against false self-employment. In short, this concerns situations where a person presents himself or herself as self-employed while under Dutch labour law the relationship qualifies as employment. By offering such contracts, clients disrupt the level playing field and the client (or employer) evades its obligations towards the Tax Authorities and the worker. This is governed by the DBA Act (Deregulering Beoordeling Arbeidsrelatie or wet DBA).

On 1 January 2027, the Wet implementatie Richtlijn loontransparantie mannen en vrouwen (Act implementing the EU Pay Transparency Directive on equal pay for men and women) will enter into force. The Directive requires employers in the Netherlands (and other EU Member States) to make equal pay more transparent and to eliminate unjustified wage disparities. The rules apply to all employers, while organisations with more than 100 employees will be subject to additional reporting obligations.

Work for hire regime

The Netherlands does not have a work for hire regime. Each agreement should contain a clause covering the licensing or transfer of works made by contractual partners.

Registration with social security

Every employer must register employees with the Employee Insurance Agency (UWV), to whom each employer must pay a certain monthly amount based on the employee's salary.

EMPLOYEES/CONTRACTORS, CONT'D

Termination

In the Netherlands, an employer must have a valid reason for dismissing employees. Valid reasons are, for example, culpable conduct, disrupted working relationship (a conflict), unsatisfactory performance, reorganization, or company shutdown. There are 4 ways to terminate an employment contract.

- Employer and employee can mutually agree to end the employment contract. The terms of the termination of the contract have to be recorded in a written settlement agreement.
- If an employee does not agree with a settlement agreement, the employer must request permission from the UWV if an employee is dismissed based on:
  - economic reasons, such as restructuring; or
  - employee's long-term illness (2 years).
- For other reasons for dismissal, an employer must apply to the court for the termination of the employment contract. Valid reasons for termination through the courts are, for example, culpable conduct, disrupted working relationship (a conflict) or unsatisfactory performance.
- Summary dismissal (also called 'being fired on the spot') is the harshest form of dismissal and is reserved for the most urgent cases. In such a circumstance, the employer can terminate the employment contract without having to observe a notice period by summarily dismissing the employee. An employee has 2 months to initiate a procedure to annul the summary dismissal.

When an employment contract ends, a notice period generally needs to be observed, with the employee being entitled to the statutory transition payment and social unemployment benefits.

CONSUMER PROTECTION

Dutch consumer protection law is rather strict and regulated through various laws. The Netherlands Authority for Consumers and Markets (Autoriteit Consument & Markt or ACM) is responsible for monitoring compliance with the legal provisions regarding protection of consumers. These rules are based on European regulations and Dutch laws. The government has elaborated some acts in a Council of Order (AMvB). A ministry can elaborate such an AMvB in a ministerial regulation. The ACM further fills in its policy space with its own regulations.

The core provisions are stipulated in the Consumer Protection Enforcement Act (Wet handhaving consumentenbescherming). It provides a catalogue of clauses for businesses that enter into contracts with consumers in a store, at a distance or off-premises. Contracts that fall outside the scope of this Act are, in particular, those types of contracts concluded outside the sales area where the consumer's payment obligation is €50 or less. In this context, contracts concluded in an online environment are not considered as off-premises contracts.

The Consumer Protection Enforcement Act holds e.g. that a consumer may only be bound by an additional service or purchase if the consumer has expressly agreed to it. In addition, there is an information obligation to which the seller in store must comply with. For contracts concluded at a distance or off-premises, this information obligation differs slightly. A consumer is not bound to contracts concluded at a distance or off-premises if this information obligation is not met.

In most cases, a consumer may exercise their right to rescind a contract concluded at a distance or off-premises within a 14-day cooling off period without the need to provide any reason. Moreover, it must be clear to a consumer that placing an order in a webshop results in a payment obligation. To this end, the order button of a web shop may need to be adjusted to meet this standard.

CONSUMER PROTECTION, CONT'D

In the Netherlands the main consumer protection association is the Dutch consumer association (Consumentenbond). The Dutch consumer association is a non-profit association that works in collaboration with consumers in order to create fair, equitable and safe markets. It mostly settles with companies to compensate duped consumers, to avoid (further) litigation and therefore uncertainty for a prolonged period.

Since 17 February 2024, the Digital Services Act has been in effect. This is European legislation containing obligations for online service providers to make the Internet more secure and reliable. The Dutch implementation law of the DSA regulating national enforcement takes effect from 4 February 2025. The ACM and the Dutch DPA (AP) are the regulators who will enforce the DSA towards services based in the Netherlands. Alongside the Digital Services Act (DSA), the European Union is now also working on the Digital Fairness Act (DFA), a legislative proposal aimed at strengthening consumer protection against darkt patterns and other unfair digital practices in the digital environment. In 2025, the EU is conducting a public consultation on this initiative, which may have implications for national implementation once the proposal is adopted.

TERMS OF SERVICE

The Dutch Civil Code regulates the content of general terms and conditions, as well as how consumers need to be informed on the content of the existing conditions. General terms and conditions are solely enforceable if they are correctly declared applicable to the contract in question. The consumer needs to be given a reasonable possibility to become aware of the general terms and conditions. Because of this, general terms and conditions must be handed over in any event during or prior to the conclusion of the contract. As consumers must have agreed to the general terms and conditions beforehand, they are mostly handed over prior to the conclusion of the contract.

Even though handing over the terms and conditions is mandatory, it is not required that they are actually read and understood. The consumer should at least have had the possibility to read, print and store the general terms and conditions before the contract is concluded. The general terms and conditions can also be deposited at the Chamber of Commerce (Kamer van Koophandel or KvK) or the court registry. If it is impossible to hand over the terms and conditions when concluding a contract. Therefore, a reference to such a deposit will suffice. However, due to an increasing number of contracts that are concluded digitally, this exception is becoming less relevant.

The general conditions include the preconditions of a contract. The so-called 'core of the contract' or 'core terms' should not be described in the general conditions. Core terms are terms which indicate the core of the performance.

Furthermore, clauses must comply with the law, which contains restrictions in order to prevent the general terms and conditions creating an unreasonable burden. Provisions that are on the so-called 'blacklist' are automatically null and void. This means that these provisions do not apply. Provisions on the so-called 'grey list' can be annulled. Therefore, depending on the circumstances of the case, these provisions do not apply. This applies particularly to consumer contracts, whereas other rules apply to companies.

Should a customer ever argue that he or she did not receive the general conditions, the company must be able to prove that the general terms and conditions were properly provided to that specific customer. The onus therefore lies with the user of the general conditions and not with the other party. The (provisions of the) general terms and conditions are voidable if the other party has not had a reasonable opportunity to take note of the general terms and conditions. Thus, the company has an information obligation towards the customer. If the annulment (of a certain provision) is invoked, this applies retroactively. This entails that these conditions are deemed never to have been applicable.

TAX/FUNDING

The Netherlands offers a range of funding opportunities and tax incentives for businesses, particularly for startups and innovative enterprises. Both the European Union and the Dutch government provide various subsidies and grants, including incentives for research and development, sustainability initiatives and technology-driven businesses. However, eligibility for these schemes depends heavily on the specific characteristics of the company, such as its sector, size, and business activities.

For an overview of available funding opportunities, visit: https://business.gov.nl/subsidies-and-schemes/.

Given the complexity of the Dutch tax system, no general specific can be made regarding corporate taxation. Tax liabilities and benefits vary significantly based on factors such as legal structure, revenue model, and operational setup.

Startups establishing operations in the Netherlands should at least be aware of the key tax obligations and benefits mentioned below.

Value-Added Tax (VAT) - omzetbelasting

The Dutch Value-Added Tax (VAT), or omzetbelasting in Dutch, is a tax applied to most goods and services. The standard VAT rate is 21%, but reduced rates of 9% (for essentials like food and medicines) and 0% (mainly for exports) also apply.

Startups must register for VAT if they are providing taxable goods or services within the Netherlands. VAT returns are typically filed quarterly, although there are also possibilities to do it monthly or annually. The frequency differs per situation. Additionally, some startups need to file their VAT returns on paper when they register for the first time. This requires contacting the Dutch tax authority (de Belastingdienst).

Corporate income tax – vennootschapsbelasting

Businesses incorporated in the Netherlands are subject to corporate income tax (vennootschapsbelasting) on their worldwide profits. The current rates (as of 2026) are:

- 19% on taxable profits up to €200.000,-
- 25.8% on taxable profits exceeding €200.000,-

Startups that make profit from innovative activities may be able to use the **innovation box**. This is a special tariff box on their corporate tax return which allows them to pay less corporate income tax on the profit of these innovative activities for all intangible assets they put in the innovation box. Intangible assets include, for example: research and development (R&D) costs and patents or other intellectual property rights. For more information, see: https://business.gov.nl/subsidy/innovation-box/.

Startups that run a company in the Netherlands and carry out R&D may be able to lower the costs for your development and research projects with the WBSO scheme. For more information, see: https://business.gov.nl/subsidy/wbso/.

TAX/FUNDING, CONT'D

Payroll tax – loonbelasting

If your startup employs staff in the Netherlands, you are responsible for withholding and paying payroll tax (loonbelasting). As an employer, you must file wage tax returns with the Dutch tax authority (de Belastingdienst) every month or every 4 weeks. This is the info employers need to calculate your own payroll taxes:

- Your employees' wage statement, which contains all the details about the wages and your employee. The Dutch tax authority has a model for the wage statement that you can download;
- Wages in other forms (e.g. a gift, company car);
- Personal details of your employees that affect the wage tax, such as a target group declaration or specific exemptions;
- Info on your employees' tax credits, such as the general wage tax credit and employment tax credit;
- The wage tax tables of the Dutch tax authority. These show the percentage of wage tax you have to withhold from each employee;
- The Whk (Werkhervattingskas) and Zvw (Zorgverzekeringswet) contributions. These are contributions to the unemployment insurance fund and healthcare insurance. You can find the percentage of the healthcare insurance contributions on the website of the tax authority. How much differentiated Whk contribution you may withhold depends on the size of the company. You will be notified about this by the Dutch tax authority.

Withholding taxes

Businesses that receive interest, royalties or dividend from abroad often have withholding tax (bronbelasting) deducted on payment of these sources of income. Businesses have to pay withholding tax on outgoing flows of interest and royalties, and on dividend flows if you pay these to companies within the same corporation that are established in countries with low tax rates (below 9%). A list of countries with low tariffs is compiled every year. With this measure the government wants to combat tax avoidance and prevent the Netherlands from being used as a gateway to low tax jurisdictions. For more information, see: https://business.gov.nl/regulation/withholding-tax-exemption-refund/.

WHAT ELSE?

Strict jurisdiction: Dutch courts are rather strict when it comes to protection of employees, consumers and data subjects. For businesses, the risk of non-compliance in these fields of law is rather high. It is thus recommendable to focus on these topics first, when rolling out a business in the Netherlands.

Strict Dutch DPA: From recent cases can be concluded that the Dutch DPA (Autoriteit Persoonsgegevens or AP) is quite strict on privacy-related issues. For example, the AP has been of the opinion that a purely commercial interest cannot be qualified as a legitimate interest for the processing of personal data. In 2024 the CJEU however clarified in C-621/22 that a commercial interest may constitute a legitimate interest.



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LEGAL FOUNDATIONS

New Zealand is a constitutional monarchy with a parliamentary democracy. The legal system is based on the common law English system and is comprised of statute law complemented by common law developed through decisions of courts. New Zealand is not divided into states or provinces, thus only one layer of legislation exists. Legislation is made by a single Parliament whose members are elected every three years.

New Zealand operates an independent and hierarchical court system consisting of the District Court, the High Court, the Court of Appeal and the Supreme Court (being the highest court), as well as various specialist tribunals such as the Employment Court, the Māori Land Court, the Human Rights Review Tribunal and the Tenancy Tribunal.

CORPORATE STRUCTURES

Legal business structures commonly used to start a business in New Zealand include companies (which may have limited or unlimited liability), sole trading, partnerships and limited partnerships.

Company: The limited liability company is the most popular business entity structure for start-ups, in part because the liability of the shareholders is limited to their capital investment in the company. Registration (i.e. incorporation) is governed by the Companies Act 1993 (**Companies Act**). The registration process is relatively inexpensive and is completed electronically through the Companies Office website. A company:

- must appoint at least one director who is either a New Zealand resident, or a resident and director of a registered company in an "enforcement country" (currently only Australia);
- must maintain a New Zealand registered office for legal notices (which can be the company's accounting or law firm);
- must file an annual return and (subject to applicable revenue or asset thresholds) financial statements with the Registrar; and
- if the liability of the shareholders is to be limited, must register a name that ends with "Limited" or the words "Tāpui (Limited)".

Shareholders may but are not required (except in limited circumstances) to adopt a constitution to set out additional matters of governance. Shareholder agreements are also commonly used to regulate share ownership, business management, director election and other governance matters. If a constitution is adopted, it must be filed with the Companies Office and will be of public record, whereas shareholders' agreements are a private contract amongst the shareholders.

The Companies Act requires all registered companies (whether limited or unlimited liability) to comply with certain recordkeeping and annual return obligations, and places additional financial reporting obligations on companies that are deemed to be "large" based on their revenues or value of assets.

CORPORATE STRUCTURES, CONT'D

Sole trading and general partnership: Becoming a sole trader is an easy and inexpensive way to start a business, as no entity registration is required. However, the individual trader has direct and unlimited liability for all aspects of the business. For that reason, it is often not a desirable option for a start-up founder, although some of that risk may be reduced via insurance and/or appropriate terms and conditions in customer and other contracts.

Where there are two or more start-up founders wishing to establish the business together, they could operate the business as a partnership (i.e. a traditional or 'general' partnership), governed by the Partnership Law Act 2019. In a partnership, all partners are equally responsible for the management and liabilities of the business. No formal registration is required, however documenting the relationship in a partnership agreement is strongly recommended in order to ensure that the partners agree on the governing terms and their respective rights and obligations. Similar to operating as a sole trader, a partnership lacks a separate legal personality for liability and tax purposes, and thus it may not be an attractive option for start-ups.

Limited partnership: A limited partnership may be formed by a general partner and at least one separate limited partner by registering under the Limited Partnerships Act 2008. Unlike a general partnership, the limited partnership is a separate legal entity that is taxed in the same 'flow through' manner as a partnership but provides both limited liability and a higher degree of confidentiality to the limited partners. The general partner acts on behalf of the partnership (and bears the liability for the acts of the partnership), and the limited partners are generally passive investors who are not involved in the day-to-day operation of the business.

Overseas company 'branch' registration: An overseas company may conduct business in New Zealand without incorporating a local subsidiary company or other separate registered entity. It must register as an overseas company with the Registrar of Companies within 10 working days of commencing business in New Zealand. A registered branch is not a separate legal entity from the overseas company, which means the overseas company and its directors may be directly liable for offences under the Companies Act and generally for the activities of the New Zealand branch. Similar to the requirements for New Zealand companies, registered overseas companies must file an annual return with the Registrar and "large" overseas companies must file audited financial statements annually. There are no local director requirements.

ENTERING THE COUNTRY

Overseas investment: An "overseas person" may be required to notify, or obtain advance consent from, the Overseas Investment Office (**OIO**) (and possibly the Minister of Finance and/or Land Information NZ) in order to complete certain transactions involving "sensitive assets". Pursuant to the Overseas Investment Act 2005 (**OIA**):

- an "overseas person" is any person who is not a New Zealand citizen (or ordinarily resident in NZ), is an overseas entity, or is a New Zealander investing on behalf of an overseas person; and
- a "sensitive asset" includes significant business assets, sensitive land, forestry rights, and fishing quotas.

A significant business asset is generally an asset or business whose value (or purchase price) exceeds NZD100 million. The scope of what is considered "sensitive land" is more complex, but generally includes all residential land, foreshore or seabed, some non-urban land, some land that includes or adjoins other sensitive areas, specified island land, and leasehold interests over 10 years in any sensitive land.

Some transactions may be prohibited or approved subject to conditions if they are contrary to New Zealand's national interest.

Assessment timeframes for OIO applications range from 5 to 200 working days depending on the type of investment.

ENTERING THE COUNTRY, CONT'D

Investment-based visas: The New Zealand government offers the Active Investor Plus (**AIP**) visa program to encourage migrant investment in New Zealand. There are two simplified investment categories under the AIP visa:

- Growth category – requiring minimum investment of NZD5 million for at least three years, and focusing on higher-risk investments, including direct investments in New Zealand businesses; and
- Balanced category – requiring minimum investment of NZD10 million over five years, and focusing on mixed investments, including those that are lower risk.

Previously, AIP visa holders were restricted from purchasing residential properties in New Zealand. From 6 March 2026, overseas investors holding an AIP visa will be permitted to buy or build a house in New Zealand valued at NZD5 million or more, subject to a streamlined OIO application process.

INTELLECTUAL PROPERTY

General: Intellectual property law in New Zealand is governed largely by legislation including:

- the Trade Marks Act 2002;
- the Patents Act 2013;
- the Designs Act 1953 and Designs Amendment Act 2010;
- the Plant Variety Rights Act 2022; and
- the Copyright Act 1994.

All applications for registered IP rights are made to the Intellectual Property Office of New Zealand (**IPONZ**), which maintains a register of trade marks, patents, designs, and plant variety rights as well as geographical indications (used on wines and spirits, and soon to be extended to other foods / similar products, possessing a quality, reputation or other characteristics specific to a geographic location). All filing fee amounts reflected below exclude Goods and Services Tax (**GST**).

New Zealand is a signatory to a number of intellectual property treaties and conventions, including the Paris Convention, the Patent Co-operation Treaty, the Berne Convention, TRIPS (Trade-Related Aspects of Intellectual Property Rights), the Singapore Treaty, the Madrid Protocol, and the EU-New Zealand Free Trade Agreement (**EU-NZ FTA**) which introduces a number of IP-related benefits to New Zealand businesses and creators of IP.

The following intellectual property rights are protected in New Zealand:

Trademarks

- **What is protectable?** Registrations can be for words, logos, shapes, colours, sounds, and smells. Trade mark protection is key to protecting a business's brand, and helps to distinguish the goods and services of one business from another.
- **Where to apply?** Applications may be filed online at the IPONZ website. International applications based on New Zealand national trade mark applications and registrations can be filed with IPONZ and IPONZ can receive international registrations filed with the World Intellectual Property Organisation (WIPO) designating New Zealand as a country in which protection is sought. An application must contain the prescribed information, namely: the mark representation, the class of goods and/or services (and class terms), and the owner.
- **Duration of protection?** 10 years from the filing date. Registrations can be renewed in perpetuity.
- **Filing fees and timeframe?** Registration takes at least six months and costs NZD100 in government fees for one mark in one class. The standard fee of NZD100 is reduced to NZD70 if the specification contains only pre-approved terms contained in the online IPONZ "TM Specification Builder", and to NZD50 if an applicant has first conducted a confidential Search and Preliminary Advice report prior to application (but only if the application is formed based on the report, with no changes. This report itself costs NZD50). Additional classes cost NZD100 per class and renewal fees are NZD200 per mark, per class.

INTELLECTUAL PROPERTY, CONT'D

Designs

- **What is protectable?** A registered design protects the external appearance of an object. To be protectable, designs must have a new or original ornament, shape, pattern, or configuration. However, the applicable novelty standard is local novelty, so the design only needs to be new or original in New Zealand – although practically, internet disclosures are generally considered 'New Zealand' disclosures.
- **Where to apply?** Applications may be filed online at the IPONZ website. An application must contain various representations of drawings or pictures showing different perspectives the design, as well as a statement of novelty, identifying what the design will be applied to and stating the novel aspects that comprise the design.
- **Duration of protection?** Five years from the date of filing (or its earliest convention date, if applicable). Registrations may be renewed for two further five-year periods, to a maximum term of 15 years.
- **Filing fees and timeframe?** The initial government fee upon application is NZD100. Renewal fees are NZD100 (first renewal) and NZD200 (second renewal).
- **Overlap with copyright:** Registered designs are not widely used in New Zealand as New Zealand has a system of 'industrial' (three-dimensional) copyright, which provides similar (although not monopoly) protection to a registered design.

Plant Variety Rights

- **What is protectable?** Plant variety rights offer plant breeders an exclusive right to the commercialisation of "propagating material" for a protected plant variety (such as spores, seeds, and cuttings). To be protectable, a plant variety right must be new, distinct, sufficiently uniform and stable, have a proper name and meet the testing formalities.
- **Where to apply?** Applications may be filed with IPONZ. The proposed variety is grown and tested to ensure it meets the requirements for protection. Applicants can claim priority from overseas UPOV applications.
- **Duration of protection?** Generally 20 years, or 25 years for 'woody plants' and potatoes.
- **Filing fees and timeframe?** The initial application requires a standard official fee of NZD625. Government fees for the testing stage range from NZD130 to more than NZD4000, depending on the category. The examination phase is NZD770 for each category and renewal fees are NZD385. Pre-grant oppositions are possible, and grant of a registered PVR usually takes between one and five years from filing.

Unregistered rights

Unregistered intellectual property rights are protected under contract law, the provisions of the Copyright Act 1994, the Fair Trading Act 1986 and/or the common law tort of 'passing off'.

Copyright

- There is no formal system of copyright registration in New Zealand – copyright exists automatically in original "works" (artistic, literary, dramatic and musical works, sound recordings, communication works and films).
- The term of copyright is generally the life of the author plus 50 years (for literary, dramatic, musical, artistic works), although New Zealand will be extending this (prior to 1 May 2028) to 70 years as a result of the EU-NZ FTA . The Copyright Act 1994 also recognises and protects moral rights including the right to be identified as an author, which rights cannot be assigned but can be waived.

Trade secrets

- There is no prescribed legislation which protects trade secrets. The protection of trade secrets and confidential information can be achieved by including the relevant contractual terms in any agreement, or relying upon common law principles, and through an action for breach of confidence in the New Zealand courts.

NEW ZEALAND

DATA PROTECTION/PRIVACY

General: The Privacy Act 2020 (**Privacy Act**) and the 13 Information Privacy Principles (**IPPs**) contained in it govern the collection, use, storage, disclosure, access/correction and transfer of personal information in New Zealand. "Personal information" means any information about an identifiable individual, where an individual is a natural person (other than a deceased person). The Privacy Act applies directly to any "agency" (being any person or body of persons, whether corporate or unincorporated, and whether in the public sector or the private sector) that deals with "personal information", including agencies that are ''carrying on business" in New Zealand, even if they do not have a physical presence in New Zealand.

Compliance with the Privacy Act is overseen by the Office of the Privacy Commissioner (**OPC**), and proceedings in relation to complaints or investigations under the Privacy Act may be commenced in the Human Rights Review Tribunal.

The Privacy Act gives the Privacy Commissioner the power to issue codes of practice (**Codes**) that modify the operation of the Privacy Act in relation to specific industries, agencies, activities or types of personal information. Codes currently in place are:

- Civil Defence National Emergencies (Information Sharing) Code 2020;
- Credit Reporting Privacy Code 2020;
- Health Information Privacy Code 2020;
- Justice Sector Unique Identifier Code 2020;
- Superannuation Schemes Unique Identifier Code 2020;
- Telecommunications Information Privacy Code 2020; and
- Biometric Processing Privacy Code 2025.

With the exception of the Biometric Processing Privacy Code 2025 (discussed below), the privacy obligations in the Codes are largely the same as the Privacy Act, with an overlay of further limitations or directions in respect of a few issues.

Transfer of personal information: IPP 11 governs the disclosure of personal information generally and IPP 12 sets out additional requirements in relation to the disclosure of personal information outside New Zealand.

The restrictions on the disclosure, and transfer outside New Zealand, of personal information under IPP 11 and IPP 12 (respectively) do not apply where the transfer is under a processor relationship, i.e. where the recipient is solely processing data on behalf of the agency. However, this processor exception is lost where the recipient uses the personal information for its own purposes.

Under IPP 11, personal information can be transferred (disclosed) outside New Zealand without additional considerations if the agency has reasonable grounds to believe:

- it is being disclosed only to the individual it concerns; or
- the source of the information is publicly available and its disclosure would not be unfair; or
- disclosure is necessary for the purposes of a New Zealand intelligence and security agency.

Personal information can also be disclosed outside New Zealand if the data subject authorises the disclosure after being expressly informed that the overseas third party may not be required to protect the information in a way that provides comparable safeguards to those in the Privacy Act (IPP 12).

In all other cases, the extra considerations in IPP 12 need to be abided by. Under IPP 12, an agency may only disclose personal information to a third party outside of New Zealand if the agency believes on reasonable grounds that the overseas third party is:

- carrying on business in New Zealand and is subject to the Privacy Act; or
- subject to privacy laws that provide comparable safeguards to those in the Privacy Act; or
- subject to privacy laws of a prescribed country (no countries have been prescribed at present); or
- otherwise required to protect the information in a way that, overall, provides comparable safeguards to those in the Privacy Act (for example, by contractual clauses between the parties). The OPC has prepared model contract clauses for this purpose; or
- a participant in a prescribed binding scheme (no such schemes have been prescribed at present).

Collection of personal information from third-party agencies: Starting from 1 May 2026, businesses will be required to take reasonable steps to notify individuals when their personal information is collected indirectly from any source, unless one of the statutory exceptions apply. Businesses are required to make the notification as soon as reasonably practicable after the information has been collected, unless the individuals have already been notified of this collection by another business.

DATA PROTECTION/PRIVACY, CONT'D

Biometrics Processing: The Biometric Processing Privacy Code 2025 (the **Code**) issued by the OPC on 6 August 2025 regulates the automated processing of biometric information. The Code modifies some of the existing IPPs and introduces specific rules around the processing of biometric information.

Biometric information is information about a person's physical or behavioural characteristics (such as a person's face, fingerprints, voice, or gait) that is used for the purpose of biometric processing by a biometric system. If biometric information is being processed for purposes such as verification, identification or categorisation, the activity will be captured by the Code. The Code differs from the Privacy Act in several ways. Most notably, businesses must meet a threshold proportionality test. This requires businesses to consider whether their collection and use of biometric information in or via a biometric system is proportionate to the potential privacy risks.

Privacy breaches: If an agency suffers a notifiable privacy breach, it is required to notify: (a) the OPC as soon as practicable after becoming aware of the breach (note - the OPC's expectation is that this notification is made within 72 hours of becoming aware of the breach); and (b) an affected individual as soon as practicable after it becomes aware that a notifiable privacy breach has occurred, subject to certain exceptions and permitted delays.

A "notifiable privacy breach" is a "privacy breach that it is reasonable to believe has caused serious harm to an affected individual(s) or is likely to do so". The Privacy Act does not define "serious harm" but it does specify the factors that agencies must consider in assessing the likelihood of serious harm being caused by a privacy breach. The OPC has noted the following as being examples of serious harm:

- physical harm or intimidation;
- financial fraud (including unauthorised credit card transactions or credit fraud); and
- psychological or emotional harm.

ARTIFICIAL INTELLIGENCE

In July 2025, the New Zealand government released an AI strategy that promises to reduce barriers to adoption, provide regulatory guidance, and build capabilities to ensure that AI adoption occurs responsibly across the private sector. However, New Zealand has yet to adopt legislation or a regulatory regime specific to artificial intelligence (**AI**). The only AI-specific policy currently active in New Zealand is the Algorithm Charter, which reflects New Zealand's commitment to ensuring trust and confidence in how the government implements and interacts with AI algorithms. This non-binding commitment does not extend to newer technologies such generative AI and is specific to the government's data system. While existing laws, such as the Privacy Act 2020, the Harmful Digital Communications Act 2015 and the Human Rights Act 1993, may not specifically cite AI, they are applicable to the use of AI in New Zealand. The OPC's guidance around AI and the Privacy Act can be found here.

EMPLOYEES/CONTRACTORS

General
Employment in New Zealand is governed primarily by the Employment Relations Act 2000 (**ERA**) which, at a high-level: specifies what must be in an employment agreement, imposes a statutory duty of "good faith" between employers and employees; endorses the right of workers to bargain collectively; establishes a regime under which employees can pursue grievances against employers; sets out a 'gateway test' for contractors (as described below). Other applicable legislation regulates health and safety, privacy, human rights, and minimum entitlements such as holidays, parental leave, minimum wages and working conditions. Written employment agreements are compulsory and may be individual (i.e. negotiated between the employee and the employer) or collective (i.e. negotiated between a registered union and an employer on behalf of employees). Union membership is not compulsory.

Termination of employment
Employment may be terminated by dismissal, constructive dismissal, redundancy or resignation. Termination by dismissal is often disputed by employees if not conducted properly. Stringent procedures must be followed to prevent a claim of unjustified dismissal. Generally, the grounds on which employees can be fairly dismissed include: serious or repeated misconduct; performance issues; redundancy; and medical incapacity. Reasonable notice and a written statement explaining the reasons for dismissal are required unless serious or gross misconduct has occurred (in this case an employee could be dismissed without notice).

Contractors
Employment law is not generally applicable to contractors unless it is determined that the contractor is a 'de facto' employee. From 23 February 2026, the new ERA 'gateway test' provides that a contractor cannot be deemed a de facto employee if they meet the definition of a Specified Contractor, which requires that the contractor have: a written agreement stating that they are a contractor; freedom to work for others; flexibility around the timing of the work or the ability to subcontract the work; freedom to decline additional work without being terminated; and a reasonable opportunity to seek advice before entering into the agreement.

Contractors are not legally entitled to annual leave or sick leave, they cannot bring personal grievances, they are required to pay their own tax, and general civil law determines most of their rights and responsibilities. If a contractor is not a Specified Contractor, a court may deem the contractor to be a de facto employee by looking at the 'real nature' of the relationship.

Work for hire regime
New Zealand has certain default rules in relation to the ownership of IP created by employees and contractors:

- Where an employee is an author of a work and that work is created during the course of their employment, then the employer will usually be the owner of the copyright and design rights in that work. Similarly, any patentable invention invented by an employee during the course of their employment, will beneficially be owned by the employer.
- If a person (e.g. a contractor) is commissioned by another person to make a certain type of work, then the person commissioning that work will be the owner of copyright in that work (regardless of whether the commissioner actually pays for the work). This default rule only applies in respect of the taking of a photograph or making of a computer program, painting, drawing, diagram, map, chart, plan, engraving, model, sculpture, film, or sound recording.

These default rules can be changed by agreement between the relevant parties.

CONSUMER PROTECTION

Fair trading and consumer guarantees: New Zealand's consumer protection law is contained in a number of statutes, primarily the Fair Trading Act 1986 (**FTA**) and the Consumer Guarantees Act 1993 (**CGA**). The FTA regulates the conduct of those in trade and the CGA establishes remedies and protections for consumers against suppliers and manufacturers of goods and services.

Broadly, the FTA prohibits:

- unsubstantiated or false representations or claims about products or services;
- deceptive or misleading advertising;
- unconscionable conduct;
- unfair sale practices (such as bait advertising) and unfair contract terms (discussed below at section 9);

The CGA prescribes several mandatory guarantees for consumers, which include (but are not limited to) guarantees as to title, quality, fitness, durability, and performance of goods and services normally acquired for household, domestic, or personal use, and remedies where those guarantees are not met. The guarantees under the CGA can be contracted out of where the goods or services are being acquired for business purposes.

Spam legislation: The Unsolicited Electronic Messages Act 2007 (**Spam Act**) prohibits "commercial electronic messages" from being sent to, from, or within New Zealand without the consent of the recipient. Consent can be "express", "inferred" (on the basis of the business or other relationships between the persons concerned), or "deemed" (on the basis the message is sent to an electronic address of a person who has conspicuously published his or her address publicly, and in a business or official capacity).

Electronic messages covered by the Spam Act include emails, faxes, instant messages, mobile/smart phone texts and image-based messages of a commercial nature. This therefore applies to all electronic marketing messages sent by businesses to consumers.

Consumer choice and control of data: The Customer and Product Data Act 2025, in force from 30 March 2025, establishes a framework to allow consumers in designated sectors to share customer data between businesses and accredited third parties. This statute is designed to:

- give customers greater control over their data, making it easier to switch service providers;
- enable innovation and facilitate competition by creating opportunities for new providers to enter the market;
- enable efficient data services; and
- provide a standardised and secure way for customers to access and use their customer data.

The banking sector is the first designated sector – with specific personal internet banking platforms required to meet the new requirements from 1 December 2025 onwards. This is the first step in what the Ministry of Business, Innovation and Employment has called a "phased rollout" of open banking. While the banking sector was the first sector to be subject to this new regime, other sectors are expected to follow over time.

NEW ZEALAND

TERMS OF SERVICE

General
For online terms of service to be enforceable in New Zealand, the customer must (a) agree to the terms of service; or (b) be provided with reasonable notice of these terms of service. Online terms of service will be unenforceable if they are considered unfair.

Unfair contract terms unenforceable
The FTA prohibits the use of unfair contract terms in both "standard form consumer contracts" (B2C contracts), and "standard form small trade contracts" (B2B contracts).

"Standard form" contracts are agreements which provide little or no opportunity for the customer to negotiate the contract terms. In addition, "small trade" contracts are business to business contracts which have an annual contractual value of NZD250,000 or less.

Under the FTA, a contractual term will be considered unfair if all of the following three elements are met:

- the term creates an unfair disadvantage resulting in a significant imbalance in the rights and obligations of the contracting parties;
- if relied upon, the term would cause detriment to the other party (either financial or emotional); and
- the term is unnecessary to protect the legitimate interests of the party who stands to benefit from that term.

If a party considers a term in a standard form contract is unfair, they can seek declaration from the court that it is unfair. If a term is declared unfair, the term may not be relied on or enforced by the party that benefits from that term (across any of its contracts).

TAX/FUNDING

Taxation Overview: New Zealand operates a relatively simple tax system featuring a broad-based income tax supplemented by a consumption tax. Inland Revenue Department (**IRD**) administers the system, collecting tax payments and pursuing infringements. IRD works with New Zealand Customs Service on certain indirect taxes such as import duties. All New Zealand businesses must have a tax file number (an IRD number), which is obtained by applying to IRD.

Corporate Income Tax: New Zealand startups are typically organized as companies, so the primary tax consideration is corporate income tax. A flat 28% rate applies to the world-wide income of companies that are New Zealand tax residents. New Zealand tax residency is triggered if the company is incorporated, has its head office or "centre of management" in New Zealand, or is controlled by its directors in New Zealand, however, if the company is also tax resident in a foreign jurisdiction, the impact of tax treaties must be considered.

Other Tax matters:

- **Goods and Services Tax (GST):** A 15% tax applies to most goods and services, payable by the end consumer. New Zealand and foreign-registered suppliers may be required to register for GST, depending on the amount of their sales of taxable goods/services. A zero rating (i.e. GST-free) applies to a narrow category of transactions. GST also applies to 'remote services' provided by non-residents (i.e. offshore companies) to New Zealand individual consumers. GST registration can be done online through the IRD website.
- **Transfer pricing:** Transfer pricing rules apply to cross-border arrangements for the acquisition or supply of goods, services, money, intangible property, and anything else where the supplier and acquirer are associated persons. Consideration for such transactions (for tax purposes) must be determined using the "arm's length" principle. IRD has indicated this is an area of focus for 2026.
- **Thin capitalisation:** "Thin cap" rules apply to New Zealand taxpayers with interest bearing intragroup loans including where a non-resident makes a significant investment in a New Zealand business.

TAX/FUNDING, CONT'D

Funding/Incentive Programs

A variety of government funding, tax incentive and other accelerator programs in New Zealand may be available to a start-up business, including:

- **Research and Development tax incentive** – Subject to minimum and maximum expenditure thresholds, the R&D tax incentive provides for a 15% tax credit on eligible expenditure. In some circumstances, up to 10% of a claim can relate to expenditure for R&D undertaken outside of New Zealand. More information can be found here: IRD R&D Tax Incentive.
- **New Zealand Growth Capital Partners (NZGCP)** – NZGCP was established by the Government to help build a vibrant early-stage tech investment market in New Zealand. It operates two government-funded investment vehicles – Elevate and Aspire – for the purpose of stimulating private investment through a fund-of-funds and co-investment model.
- **Other Government funding** – Businesses that are engaged in significant research and development can seek Government funding through various New Zealand universities or research institutes. In addition, the Government regularly commits funds, sometimes via public-private partnerships that invest in start-ups, in specific industries (such as Agrizero.nz which invests in technology and research to reduce emissions) or initiatives that support Māori advancement and skills. Many of these programs are sponsored by the Ministry of Business, Innovation and Employment (MBIE) which supports innovation in science and technology through various funds. (For more information: MBIE Science and Innovation Funding)
- **Tech ecosystem** – Aside from government funding and tax incentives, New Zealand enjoys a vibrant ecosystem for supporting technology start-ups, including partners such as New Zealand Private Capital and the Angel Association of New Zealand, as well as technology incubators and accelerators (such as CreativeHQ and deep-tech incubator Outset Ventures).

WHAT ELSE?

Registrations: In addition to the required IRD number referenced above, most businesses also choose to apply for a New Zealand Business Number (**NZBN**), which is not mandatory but helps customers and suppliers to more easily engage with a business. A company is automatically issued a NZBN when it is incorporated. Additional licences or registrations may be required depending on the type of business conducted.

Accident compensation scheme: All citizens and residents of New Zealand who suffer a personal injury are covered by a statutory no-fault scheme administered by the Accident Compensation Corporation (**ACC**) which operates under the Accident Compensation Act 2001. The scheme funds medical and treatment costs, loss of earnings, disability allowances, and, in the case of death, funeral expenses and benefits for dependants. The scheme covers most physical injuries and a limited range of mental injuries, regardless of whether the accident occurs in the workplace or elsewhere. Funding for the scheme comes from various sources, including levies on employers and employees. The levies an employer must pay are determined by the risk classification of the business (i.e. risk of injury at work), the employer's ACC claims history and the size of its payroll.



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LEGAL FOUNDATIONS

While Nigeria operates a Common Law system, due to its colonial affinity to English law, the current legal system is derived from the Constitution of the Federal Republic of Nigeria 1999 (as amended). The Constitution, as the supreme law, establishes federalism, separation of powers and the hierarchy of courts systems. The legal system created under the Constitution also integrates statutory law with a limited scope for customary and Islamic (Sharia) law.

With regards to Nigeria's courts structure, judicial decisions play a significant role, with the Supreme Court serving as the highest court of the land. Its decisions are binding on all lower courts. Beneath the Supreme Court sits the Court of Appeal, followed by the Federal High Court, which is of coordinate jurisdiction with the State High Courts as well as the National Industrial Court. At the lower tier are Magistrates' Courts, which handle minor civil and criminal matters, and various Customary Courts and Sharia Courts, which operate in certain states and exercise limited jurisdiction over customary law, Islamic personal law, inheritance, marriage, and chieftaincy matter.

In terms of jurisdiction layers, we have the federal, state, and local government.

- Federal law governs matters enumerated in the Exclusive Legislative List of the Constitution of the Federal Republic of Nigeria 1999 (as amended), including company law, immigration, banking, intellectual property, taxation, and foreign investment. These laws are enacted by the National Assembly and enforced by federal authorities.
- State law applies to matters in the Concurrent Legislative List, where both the federal and state governments may legislate, and to residual matters not assigned to the federal government. State Houses of Assembly enact laws governing land use, state-level taxes, and local business operations.
- Local government authorities administer regulatory and administrative requirements within their jurisdictions, such as sanitation, regulating local markets, registering births, deaths, and marriages.

Federal and state statutes create both civil and criminal liabilities, within the limit of their legislative competence as prescribed by the Constitution.

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

The Companies and Allied Matters Act 2020 provides for the following business entities:

Companies

Private Company Limited by Shares

The Private Company limited by shares (LTD) has proven to be the most popular form of company in Nigeria generally, and particularly for startups. As to its requirements:

- It requires at least one shareholder (individual or legal entity) and not more than 50 for its incorporation.
- Further, the shareholders have to draw up and sign the Memorandum and Articles of Association, which is to be filed electronically with the Corporate Affairs Commission (CAC).
- The LTD has a minimum issued share capital of one hundred thousand naira (about $70). For companies with foreign participation, the minimum issued share capital is one hundred milllion naira (about $70,000).
- It must have a registered office in Nigeria

Advantages and disadvantages of Companies compared to partnerships:

ADVANTAGES

- Limited liability of the shareholders.
- Highly attractive for Venture Capital and Private Equity.

DISADVANTAGES

- Minimum issued share capital of NGN100,000,000 (about $70,000) for companies with foreign participation.
- Strict Compliance requirements including Mandatory filing of annual returns.
- Restriction as to transfer of shares.
- 2 is the minimum number of directors.

Public Company Limited by Shares (PLC)

The PLC is another popular form of company in Nigeria. As to its requirements;

- It requires at least two shareholders (individual or legal entity) for its incorporation
- The shareholders have to draw up and sign the Memorandum and Articles of Association, which is to be filed electronically with the Corporate Affairs Commission (CAC).
- The PLC has a minimum issued share capital of two million naira (about $1400). For companies with foreign participation, the minimum issued share capital is one hundred million naira (about $70,000).
- There must be at least 2 directors (one-third of the directors must be independent directors) and a secretary for its incorporation.
- It must have a registered office in Nigeria.

ADVANTAGES

- Access to public capital.
- Liquidity for Investors.
- No Statutory limit on membership.

DISADVANTAGES

- Minimum issued share capital of NGN2,000,000 (about $1478) compared to NGN100,000 (about $70) for private companies.
- Vulnerable to hostile takeovers and dilution.
- Requires a professionally qualified Company Secretary, one-third independent directors, and higher Securities and Exchange Commission /Corporate Affairs Commission filing fees.
- Strict Compliance requirements including Mandatory filing of annual returns.
- Mandatory statutory meetings and strict Security & Exchange Commission (SEC) disclosures.

CORPORATE STRUCTURES, CONT'D

Partnerships

Apart from the LTD, the most common forms of partnerships for businesses are General Partnership (GP) and Limited Partnership (LP). As to the requirements:

- In both cases, the establishment requires a partnership agreement between at least two partners (individuals or legal entities).
- For its incorporation both GP and LP must be registered with the Corporate Affairs Commission (CAC). The partners are fully and personally liable with their personal assets in a General Partnership.
- However different from the GP, in an LP there are two types of partners: (i) general partners, who have unlimited liability, and (ii) limited partners, who have only limited liability.
- Crucially, an LLP is a body corporate with a separate legal personality from its partners; a GP and LP are not; they are merely "Business Names" registered under Part C of the Act.
- As soon as the registration with CAC has been completed, the GP or the LP can start the commercial activities.

Advantages and disadvantages of partnerships compared to corporations:

ADVANTAGES

- No minimum share capital.
- Fewer regulatory filings and compliance requirements.
- No obligation to disclose the articles of association.

DISADVANTAGES

- Unlimited liability; this applies to all partners in an GP and only to the general partners in a LP.
- Partners are taxed individually on their share of the profits.

Another form of partnership is the Limited Liability Partnership (LLP). Its establishment requires at least two persons who have common resources and who pursue a common business purpose, one of whom must be resident in Nigeria. The partners' liability is restricted to the amount of money they invested, and creditors are not allowed to pursue partners' personal income or assets. The LLP itself is not subject to tax but the personal income of partners is taxed, in sum, it is an attractive option for start-ups.

Sole Proprietorship (Business Names)

The sole proprietorship is also a commonly used business form in Nigeria. The owner of the business is a single natural person. The sole proprietorship comes into existence upon registration of the business with the Corporate Affairs Commission (CAC) The sole proprietor is fully and personally liable with his or her private and business assets.

Finally, under the Startup Act, a startup is a company in existence for no more than ten years, engaged in the creation, innovation, production, development, or adoption of a unique digital technology, product, service, or process, and a "company" is defined as a limited liability company registered with the Corporate Affairs Commission (CAC). Accordingly, a startup in compliance with the provisions of the Startup Act is to be structured as Private Company Limited by Shares (Ltd) or Public Company limited by Shares (PLC).

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ENTERING THE COUNTRY

Nigeria maintains a relatively liberal foreign investment regime. Under the Nigerian Investment Promotion Commission (NIPC) Act, as amended, 100% foreign ownership is permitted in most sector. The 'negative list' includes exceptions to this, and limits foreign participation in certain commercial activities such as dealings in arms and ammunition, narcotic and psychotropic substances, military and paramilitary wear, as well as any other sectors designated by the Federal Executive Council. Some of the sectors that have further limitations include the oil and gas industry, which by virtue of the Nigerian Oil and Gas Industry Content Development Act 2010 mandates a 51% minimum ownership. The Nigerian broadcasting sector also has similar restrictions.

Section 78 of the Companies and Allied Matters Act (CAMA) 2020, mandates that a foreign company intending to "carry on business" in Nigeria must incorporate a local subsidiary. Exemptions exist for short-term specialist government projects or certain treaty-based activities. It is also worth noting that a company with foreign participation is required to have a minimum paid-up capital of 100 million Naira (about $70,000).

Following incorporation, foreign owned businesses are also required to register with the NIPC, to allow investors legally import capital, access certain investment incentive and repatriate profits and dividend. Where the company is a foreign owned company, or a joint venture, the company is also required to obtain a business permit from the Ministry of Interior. Where foreign personnel are employed, the company must also secure an Expatriate Quota approval specifying the permitted foreign roles. Foreign employees enter on a Subject to Regularisation (STR) visa and convert this on arrival to a Combined Expatriate Residence Permit and Aliens Card (CERPAC), which authorises both residence and employment.

INTELLECTUAL PROPERTY

The following intellectual property rights can be registered in Nigeria:

Trademarks

Registered Trademarks

What is protectable? Under the Trade Marks Act 1067, a trademark is any device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination, capable of distinguishing the goods or services of one undertaking from those of others. The Business Facilitation Act 2023 statutorily expands this definition to include service marks (although the Registry has been accepting registration prior to this Act) as well as to shape of goods, their packaging, and combinations of colors. Registration confers the exclusive right to use the mark in Nigeria in relation to goods in the registered classes and provides a statutory basis for infringement proceedings. In practice, trademark registration process can be quite tardy, particularly where there is a refusal of the mark by the Registry or third party opposition.

Where to apply? Trademark applications are filed with the Trademarks, Patents and Designs Registry under the Federal Ministry of Industry, Trade and Investment and this can be done by accredited agents via the IPO Nigeria website or via the Electronic payment platform for Businesses & Individuals, known as Remita.

Nigeria is not a member of the Madrid System/Protocol. Consequently, international startups cannot designate Nigeria in a centralised international trademark application. Trademark protection can only be secured via a direct national filing through the local Registry.

Duration of protection? An initial registration is valid for seven years and may be renewed indefinitely for successive fourteen-year periods.

Costs? Official fees depend on the number of classes applied for. Professional fees may also apply.

INTELLECTUAL PROPERTY, CONT'D

Unregistered Trademarks

Due to its English Law roots, unregistered trademarks (and even qualifying registered marks), receive some judicial protection via the Common Law Tort of Passing Off. For a party to rely on passing off, such person must prove goodwill or reputation in the mark; that another party has made a misrepresentation to the public leading or likely to lead the public to believe that the goods or services offered by that other party are those of the claimant or are in some way connected with the claimant; and that the claimant has suffered, or is likely to suffer, damage as a result of that misrepresentation.

While this cause of action can be said to protect trademarks, the essence of the action is the protection of commercial goodwill against deceptive conduct that causes confusion in the marketplace, even where no statutory registration exists.

Patents

What is protectable? Under the Patents and Designs Act 1971, inventions that are new, involve an inventive step (non-obvious), and are capable of industrial application are protectable. Improvements upon patented inventions that satisfy the tripartite criteria are also patentable.

Where to apply? Patent applications are filed with the Trademarks, Patents and Designs Registry under the Federal Ministry of Industry, Trade and Investment and this can be done by accredited agents via the IPO Nigeria website or via the Electronic payment platform for Businesses & Individuals, known as Remita.

As Nigeria is a signatory to the PCT, applicants are allowed to enter the national phase in Nigeria within 30 months of the priority date. While PCT applications may designate Nigeria, the country has not fully domesticated the treaty into local legislation. Thus, national phase filing is to be done in the local registry.

Duration of protection? Patent protection lasts for twenty years from the filing date, subject to the payment of annual renewal fees.

Where an applicant has first filed a patent application in another country, the applicant may claim foreign priority in Nigeria, provided that the earlier filing was made in a country that is a party to the relevant international convention and that the Nigerian application is filed within twelve months of the earlier filing date. In such circumstances, the Nigerian application will be treated as having been filed on the same date as the first foreign application for the purpose of determining novelty and priority.

Employee inventions? Inventions made in the course of employment or under commissioned work generally vest in the employer, unless otherwise agreed by contract. However, where the employment contract does not require the employee to exercise any inventive activity but the employee has in making the invention used data or means of his employment or where the invention is of exceptional importance, the employee is entitled to a fair remuneration. Such statutory remuneration cannot be modified by contract.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs

What is protectable? Under the Patent and Designs Act 1971, any combination of lines or colours or both, and any three dimensional form, whether or not associated with colours; that is, the aesthetic or ornamental features of a product, provided they are new and not contrary to public order or morality.

Where to apply? Applications are filed with the Trademarks, Patents and Designs Registry. This can be done by accredited agents via the IPO Nigeria website or via the Electronic payment platform for Businesses & Individuals, known as Remita.

Duration of protection? Protection is granted for five years and may be renewed for two additional five-year periods.

As with patents, an Applicant also has a leeway to claim priority by virtue of an earlier foreign design application where the prior filing was made in a country that is a party to the relevant international convention and that the Nigerian application is filed within twelve months of the foreign filing date.

Copyright

What is protectable? Under the Copyright Act 2023, Literary works (including computer programs), artistic works, musical works, audiovisual works and sound recordings are protected by copyright. Protection arises automatically upon fixation of the work in a tangible medium, provided some effort has been expended on making the work, to give it an original character, irrespective of quality, the purpose for which the work was created or even that it infringes the copyright of a third party.

However, the Act specifically excludes from copyright protection ideas, procedures, processes, formats, systems, methods of operation, concepts, principles, discoveries or mere data. Accordingly, tech startups must understand that while source code and arrangement of data may be protected, data and the format, function or methods of operation of the code is not protected as copyright.

Where to apply? Although the country's copyright regime does not require registration for the purposed of protection, the Nigerian Copyright Commission (NCC) has a 'registration' (notification) scheme that is of evidential value and aids enforcement. Registration for works eligible for copyrights can be made to the Nigerian Copyright Commission through the Nigerian Copyright e-Registration System (NCeRS).

Duration of protection? The duration of copyright of literary works, musical or artistic works other than photographs is 70 years after the end of the year in which the author dies. Works made by or under the direction of a government, its agency or an international body, audiovisual works and photographs and sound recording works has a duration of 50 years after the end of the year in which the work was first made available to the public with the consent of the author or 50 years after the work was created, if not made available to the public within that time.

Copyright in anonymous or pseudonymous literary, musical or artistic works has a duration of 70 years after the year in which the work was first made available to the public with the consent of the author or 70 years after the work was created, if not made available to the public within that time.

Exploitation of the work? The copyright owner has the exclusive right to reproduce, distribute, adapt and otherwise exploit the work, and may grant exclusive or non-exclusive licences to third parties.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

Confidential business information and know-how are not recognised as a separate statutory intellectual property right. Protection is derived from contractual arrangements, such as non-disclosure agreements, and from the Common Law doctrine of breach of confidence. Protection subsists only for as long as confidentiality is maintained and reasonable measures to preserve secrecy are in place.

Foreign Technology Transfer

Agreements involving the transfer of foreign technology, including software licences and technical service arrangements, must be registered with the National Office for Technology Acquisition and Promotion. This requirement does not create intellectual property rights but functions as a regulatory mechanism, particularly for the lawful remittance of royalties and technical fees.

DATA PROTECTION/PRIVACY

Nigeria's data protection regime is governed by the Nigeria Data Protection Act 2023 (NDPA), which establishes the Nigeria Data Protection Commission (NDPC) and gives it oversight, investigatory and penalty powers, and authority to issue regulations, rules, directives, and guidance. The Act is influenced by the EU General Data Protection Regulation but is tailored to Nigerian regulatory and commercial practice. In 2025, the NDPC issued the General Application and Implementation Directive (GAID) 2025 as a key regulation to aid the implementation of the NDPA.

The NDPA provides the following core framework:

Principles of Processing
Personal data must be processed lawfully, fairly and transparently. Processing must be limited to specified and legitimate purposes and confined to data that is adequate, relevant and not excessive. Data must be accurate and kept up to date, retained only for as long as necessary, and protected through appropriate technical and organisational security measures.

Lawful Bases for Processing
Personal data may only be processed where a valid legal basis exists. These include consent, contractual obligation, legal obligation, vital interest, public interest and legitimate interest.

Data Controllers and Processors of Major Importance
Entities that process substantial volumes of personal data or operate in sensitive or regulated sectors, such as fintech, health-tech or edtech, may be classified as Data Controllers or Data Processors of Major Importance. Such entities are subject to enhanced obligations, including:

- Mandatory registration with the NDPC.
- Appointment of a qualified Data Protection Officer.
- Conduct of Data Protection Impact Assessments where processing presents high risk.
- Implementation of internal compliance frameworks and submission of periodic compliance audit summaries.

DATA PROTECTION/PRIVACY, CONT'D

Cross-Border Transfers
Transfers of personal data outside Nigeria are restricted unless the receiving jurisdiction ensures an adequate level of protection. Adequacy may be established through:

- A determination by the NDPC.
- Binding Corporate Rules within a corporate group.
- Standard Contractual Clauses incorporated into data processing agreements.
- Explicit, informed consent of the data subject after disclosure of associated risks.

Enforcement and Sanctions
Non-compliance may result in administrative penalties, regulatory directives, civil liability, and reputational exposure.

The NDPA applies uniformly throughout Nigeria without regional variation. Startups and technology-driven businesses must assess at an early stage whether they fall within the classification of entities of major importance and structure their data governance, documentation, and cross-border data flows accordingly.

ARTIFICIAL INTELLIGENCE

Currently, Nigeria does not have a standalone statute dedicated exclusively to artificial intelligence. Regulation of AI is currently achieved through existing legal frameworks. For instance, the Nigeria Data Protection Act 2023 governs automated decision-making, data minimisation, and the processing of personal data. The Federal Competition and Consumer Protection Act, 2018 (FCCPA) has provisions that may also be relevant for AI regulation, including provisions relating to unfair contract terms, discrimination and algorithm bias, unjust AI enable dynamic pricing; the Federal Competition and Consumer Protection Commission can also use its powers to investigate and prosecute AI platforms (including AI chat boxes and automated advertising) where consumer rights may have been violated. The Nigerian Communications Commission (NCC) Internet Code of Practice published in February 2026 requires that AI deployed by Internet Access Service Providers adhere to all the provisions of the Code including on automated content moderation, algorithmic accountability to human supervision, non-discrimination, parental control, amongst others. The Code also requires that the NCC is notified prior to the deployment of AI, specifying an array of information including information as to timespan and the services that would be supplanted by AI. The IASPs are also required to inform users that they would be impacted by the deployment, to confirm that the deployment would not affect network integrity and to also maintain a 'kill-switch' capability to withdraw the AI tool.

A significant legislative development under consideration is the proposed National Digital Economy and E-Governance Bill, anticipated for enactment by 2026. This Bill is expected to confer formal regulatory authority on the National Information Technology Development Agency (NITDA) over algorithms, digital platforms, and automated decision-making systems. Provisions likely to affect startups include risk-based oversight requiring mandatory annual audits of AI systems in sectors such as public administration, finance, and surveillance; obligations for algorithmic accountability, including documentation of AI capabilities and bias mitigation measures; and the introduction of consumer rights mechanisms such as explanation pathways for automated decisions affecting individuals.

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EMPLOYEES/CONTRACTORS

General

Nigeria employment law is governed by the Labour Act, which applies mainly to workers engaged in manual labour or clerical work while workers exercising administrative, executive, technical or professional functions (more senior workers), are governed by their respective contracts for employment, English Common Law and judicial precedence. The 1999 Constitution (Third Alteration) Act 2010 and the National Industrial Court (NIC) have radically shifted the legal landscape for employment law in Nigeria. The Third Alteration Act 2010 introduced provision, which grants the NIC exclusive jurisdiction to labour and employment matters and permits the NIC to apply and interpret "international labour standards." This provision is radical as Nigeria is constitutionally a dualist state, that require that international treaties be ratified and domesticated through national legislation, before it becomes enforceable. Importantly, by granting the NIC wide powers to apply and enforce the dynamic and evolving international standards, employers are required to constantly look beyond Nigerian law to consider international practices, including standards set by the International Labour Organization (ILO) in their interface with employee. Accordingly, the NIC has relied on ILO and UN conventions in cases relating to termination, enhanced maternity and nursing protection, protections against workplace discrimination, amongst others.

Work-for-Hire

The Copyright Act recognises that intellectual property shall initially vest in the author. Where a person employed under a contract of service creates a copyrightable work, ownership of the copyright in that work will vest in that person unless the contract provides differently. Therefore, an employer who intends to own the copyright in a work created by his employee must ensure that their contract provides in those terms. The position is different in the case of works created in the course of employment or under contract for service for a government, ministry, department, agency (MDA), or prescribed international organisation. For such persons, the copyright vest in the government or organisation by default. There is also the prescription that commissioned visual and audio-visual works for private or domestic purposes grants the commissioner a non-exclusive license to use the work for non-commercial purposes as well as the right to restrain its use.

Additionally, unless varied by contract, copyright in collective works vests on the person who directed the creation of the work, while individual creators have the right to exploit their portions of the work. Thus, where tech startups employ freelance developers or designers, significant considerations must be given to determine whether ownership of the individual contributions of such freelancers is warranted. If so, the freelance contract ought to include IP assignment clauses as well as confidentiality/NDAs.

Registration with statutory schemes

Every employer must register employees with the relevant statutory bodies and remit mandatory contributions including pension contributions under the Pension Reform Act 2014 and Pay as You Earn (PAYE) deductions under the Nigeria Tax Act 2025. Additionally, the National Health Insurance Authority (NHIA) Act 2022 mandates health insurance for all employees in both the public and private sectors for organisations with five or more staff. Under this framework, employers must register with the NHIA and relevant State Social Health Insurance Agencies.

These requirements do not apply to independent contractors, who are only responsible for their own statutory filings subject to applicable withholding tax deductions.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of Employment
Employment contracts may be terminated in accordance with statutory or contractual notice periods. Notice periods under the Labour Act depend on length of service. Although there have appear to be some uncertainty in the judicial position with regards to termination for cause, the recent judicial authorities indicate that Nigerian law does not require "good cause" in the strict contractual sense for termination of ordinary employment; however, judicial precedent from the National Industrial Court require that termination not be arbitrary and that it be justifiable on grounds such as performance, conduct, or operational necessity. Employees may challenge termination where it violates statutory provisions, contractual terms, anti-discrimination principles, or fair hearing requirements.

There are also some statutory protection for specific employees, for instance, the National Mental Health Act 2021 and the HIV and AIDs (Anti-Discrimination) Act 2014 proscribe termination or deprivation of benefits on the basis of such health status.

CONSUMER PROTECTION

Foreign entities operating in Nigeria must comply with the Federal Competition and Consumer Protection Act 2018 (FCCPA), which establishes the Federal Competition and Consumer Protection Commission (FCCPC) as the regulatory authority. The Act applies to all commercial activities conducted in Nigeria or having an effect within Nigeria, meaning it also covers foreign suppliers of goods or services to Nigerian consumers.

Core Consumer Protection Provisions
The FCCPA provides a framework of mandatory consumer protection rules, including:

- Prohibited conduct: Businesses must not engage in false, misleading, or deceptive trade practices.
- Contract terms: Clauses that are unfair, unreasonable, or unjust are not enforceable against consumers.
- Product and service standards: Goods and services must meet implied guarantees of quality, fitness for purpose, and conformity with description. Breaches entitle consumers to repair, replacement, or refund.
- Product safety: Distribution of unsafe goods is prohibited, and the Commission may order recalls or corrective measures where necessary.

Enforcement and Remedies
The FCCPC has broad supervisory and enforcement powers. Consumers may seek remedies, including repair, replacement, or refund. The Commission may also impose administrative penalties for violations, including fines of up to 10% of a company's annual turnover or ₦10 million (about $7,000), whichever is higher.

Competition Law
The FCCPA establishes a competition regime to prevent anti-competitive practices:

- Anti-competitive agreements: Price fixing, market allocation, collusive tendering, and other agreements that prevent, restrict, or distort competition are prohibited and void.
- Abuse of dominance: Firms in a dominant position may not exploit this position to harm competition. The FCCPC has also made the Abuse of Dominance Regulation, 2022 with more granular provisions, in this regard.
- Merger control: Mergers exceeding prescribed turnover thresholds and likely to substantially lessen competition must be notified to and approved by the FCCPC. Failure to notify or obtain approval is a contravention and may attract penalties.
- Monopoly investigation: The Commission also has the powers to investigate monopolies and to recommend to the Ministers actions to be taken.

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TERMS OF SERVICE

Online terms of service in Nigeria are enforceable where the consumers have explicitly agreed to them, ideally via a tick-box or other clear affirmative action. Terms must comply with consumer protection provisions under the Federal Competition and Consumer Protection Act (FCCPA) and general contract law.

Section 128 of the Federal Competition and Consumer Protection Act 2018 requires businesses to clearly and prominently inform consumers of any terms that may affect their rights or obligations. In simple terms, if a business includes any provision that seeks to limit its liability, shift risk to the consumer, require the consumer to indemnify the business or another party, or obtain an acknowledgement of any fact from the consumer, such provision must not be hidden in fine print.

The law requires that these terms be presented in a way that is obvious, clear, and likely to catch the attention of an ordinarily alert consumer, taking into account the context and circumstances in which the transaction occurs.

Enforcement
For online terms to be enforceable, the consumer assent must be documented. Evidence of agreement via click-through, sign-in-wrap, or other verifiable methods is recommended to ensure enforceability in Nigerian courts.

Furthermore, where the product processes personal data, the terms and privacy notices should align with NDPA 2023 compliance requirements and GAID (e.g., on governance, transparency, and cross-border transfer posture).

TAX/FUNDING

The president of Nigeria assented to new Tax Reform Acts in 2025. The Acts, which took effect from 01 January 2026, comprises the Nigeria Tax Act, 2025, the Nigeria Tax Administration Act, 2025, Joint Revenue Board of Nigeria (Establishment) Act, 2025 and the Nigeria Revenue Service (Establishment) Act, 2025. There are a number of provisions in these Acts that are relevant to foreign investors and tech startups, some of which include:

Taxation of Non-Resident Companies:
Before the Nigeria Tax Act 2025, non-resident companies were taxed on profits that accrued in, were derived from, brought into, or received in Nigeria. Under the new Act, taxation also covers situations where a non-resident company has a Significant Economic Presence or a Permanent Establishment in Nigeria, including through digital or remote services.

In practical terms, this means that income does not have to be physically brought into Nigeria before it can be taxed. If the income is connected to Nigeria in a sufficient way, especially through economic presence or business activities carried out in Nigeria, it may be subject to Nigerian tax.

Taxation of Digital and Virtual Assets:
Non-resident companies that deal in virtual assets are now subject to tax in Nigeria. This includes transactions involving crypto assets, utility tokens, security tokens, non-fungible tokens and other similar forms of digital value. In essence, if a non-resident earns income from digital or virtual asset transactions that are connected to Nigeria, that income may now be taxed in Nigeria, even if the business operates remotely.

TAX/FUNDING, CONT'D

Increased Capital Gains Tax Rate:
The Capital Gains Tax rate for companies has increased from 10 percent to 30 percent. This brings it in line with the Companies Income Tax rate and removes the previous gap that allowed some taxpayers to classify income as capital gains instead of trading income in order to pay less tax.

For individuals, capital gains will now be taxed at their applicable personal income tax rate, based on their progressive tax band. Foreign investors should take this change into account when planning transactions or investment exits.

Taxation of Capital Gains:
Capital gains arising from the disposal of assets, including shares and digital property, are now taxable unless a specific exemption applies.

General Information on Tax

Startups in Nigeria are typically incorporated as private limited liability companies under the Companies and Allied Matters Act. This overview focuses on startups structured as companies and highlights the key tax considerations under the 2025 Tax Reform Acts, particularly the Nigeria Tax Act 2025.

1. **Company Income Tax:** Under the Nigeria Tax Act 2025, companies are generally subject to Companies Income Tax at 30 percent of taxable profits. Small companies, defined as companies with annual gross turnover not exceeding 100 million naira (about $70,000) and an asset base not exceeding 250 million naira (about $175,000), remain exempt from Companies Income Tax.
2. **Withholding Tax on Dividends and Interest:** Dividends and interest paid by a Nigerian company are subject to withholding tax. The standard rate remains 10 percent for payments to both resident and non-resident recipients, unless reduced by an applicable double tax treaty. Small companies and unincorporated entities are exempt from deducting WHT on transactions if the total value in a calendar month does not exceed 2 million naira (about $1,500). The paying company is responsible for deducting and remitting the withholding tax to the relevant tax authority. For residents, the withholding tax typically represents a final tax on dividend income as it is considered as franked investment income. For non-residents, it also often operates as a final tax, subject to treaty provisions.
3. **Withholding Tax on Royalties:** Royalties paid to non-residents are generally subject to withholding tax at 10 percent, subject to any applicable treaty relief. For residents, withholding tax on royalties is usually 10 percent for corporate recipients and 5 percent for individuals.
4. **Capital Gains:** Under the Nigeria Tax Act 2025, chargeable gains are now effectively aligned with the broader corporate income tax framework. For companies, capital gains are taxed at 30 percent, aligning the rate with Companies Income Tax and reducing the prior rate differential. This means that gains arising from the disposal of assets, including shares and digital assets, are taxed at the corporate income tax rate unless a specific exemption applies. The 2025 tax framework provides a vital exemption for most early-stage ventures: no CGT is triggered on disposals unless the total proceeds cross the 150 million naira (about $100,000) mark, with a profit cap of ₦10 million (about $7,000).
5. **Value Added Tax:** Value Added Tax remains chargeable at 7.5 percent on taxable supplies of goods and services. Small companies are exempt from charging VAT, provided they fall below the statutory turnover threshold. VAT returns must be filed monthly, generally by the 21st day of the following month. Where output VAT exceeds input VAT, the difference must be remitted. Where input VAT exceeds output VAT, the excess may be carried forward or refunded in accordance with the applicable rules. A significant change under the new tax regime is that businesses can now claim full input VAT recovery on both services and capital assets (fixed assets), unlike in the past.
6. **Development Levy:** Under the new tax framework, certain levies such as the Tertiary Education Tax (TET), Information Technology Levy (IT), the National Agency for Science and Engineering Infrastructure (NASENI) levy and the Police Trust Fund (PTF) levy have been consolidated into a 4% development levy, chargeable on the assessable income of all companies other than small companies and non-resident companies.. Companies are required to comply with the applicable development or economic levy provisions as prescribed under the Act and relevant regulations. The applicable rate and scope depend on the company's classification and sector.

TAX/FUNDING, CONT'D

Nigeria Startup Act (NSA) 2022

The Nigeria Startup Act (NSA) 2022, provides a legal and institutional framework for the development of startups in Nigeria. It aims to position Nigeria as Africa's leading digital hub by offering tax incentives, simplifying regulatory compliance, and increasing access to funding. It is worth nothing that some of the provisions of the NSA have been repealed and replaced by the Nigeria Tax Act 2025 (NTA); there is therefore and overlap between the un-repealed portions of the NSA and the recent NTA, particularly with regards to tax exemptions and incentives relating to small companies.

Generally, and as modified by the NTA, for a foreign company to take advantage of the incentives under the NSA, the foreign company must be at least 33% local shareholding, the company must obtain an official Startup Label from NITDA, the company must be incorporated in Nigeria for less than 10 years and must have a digital technology focus. . In addition, a reduced rate of 5% on withholding tax applies to payments to non-residents that provide technical, professional, management, or consultancy services to labelled startups. It is important to mention that the NTA creates a tax exemption on gains accruing from the disposal of assets by an angel investor, venture capitalist, private equity fund, accelerators or incubators with respect to a labelled startup, provided the assets have been held in Nigeria for a minimum of 24 months (2 years).

Labelled startup enjoy financial benefits such as an Economic Development Incentive (EDI) by which labeled startups can now access a 5% annual tax credit for five years on qualifying capital expenditure, subject to approval by the President upon the recommendation of the Nigerian Investment Promotion Commission (NIPC) and the Minister of Finance. Further, investors are also entitled to a 30% tax credit on their investment in labelled startups. There are also a number of regulatory and structural support available to labelled startups, under this Act.

Funding Sources

Funding Type	Source/Managing Body	Details
Startup Investment Seed Fund	NSIA (Nigeria Sovereign Investment Authority)	A ₦10 Billion fund specifically for labelled startups. https://nsia.com.ng/nigeria-infrastructure-fund/
Grants and Loans	CBN / Bank of Industry (BOI)	Fast-tracked access for startups registered on the Portal. https://www.cbn.gov.ng/DFD/manufacturing/cbif.html
Crowdfunding	SEC-licensed platforms	Labelled startups can raise funds via SEC-registered crowdfunding portals.
Export Incentives	Export Development Fund	For startups exporting digital services https://nepc.gov.ng/blog/export-incentive/export-development-fund/

WHAT ELSE?

Technological Registration (NOTAP): Many startups fail to register their licensing agreements with NOTAP within 60 days. This creates a "deadlock" where the startup earns in local currency but cannot legally purchase foreign exchange to pay for its business needs, such as global software licenses or cloud services.

Corruption and Enforcement: The Criminal Code and the Corrupt Practices Act provide a strong framework against bribery; however, there have been concerns around the effectiveness of enforcements. Startups are encouraged to have robust internal AML/CFT (Anti-Money Laundering/Combating the Financing of Terrorism) policies to maintain international bankability.

The "Lagos Factor": Although, Abuja is the Federal Capital Territory and administrative capital of the country, Lagos remains the commercial capital and tech hub of Nigeria.

Dispute Resolution: Litigation in Nigerian courts can be time-consuming, often taking several years to reach a final judgment or resolution. There are also concerns about technology expertise of the general courts. For commercial contracts, relying solely on court proceedings may therefore delay enforcement of rights or recovery of claims. For startups and foreign investors, including arbitration or mediation clauses in commercial agreements may be a practical strategy to mitigate the delays and uncertainties of Nigerian court litigation while maintaining enforceable rights. However, this is not fool-proof as parties are sometimes still able to tactically delay arbitration or mediation proceedings or the enforcement of awards, through court mechanisms.



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LEGAL FOUNDATIONS

North Macedonia operates under a **civil law system**, characterized by a hierarchical arrangement of legal sources. Therefore, the legal system of North Macedonia has the Constitution at the top, along with ratified international treaties and the universally acknowledged principles of international law. In addition, the legal system is grounded in codified legal norms, primarily conveyed through codes and laws. These legal acts cover the domains of public, private and criminal law, and are subject to periodic updates. Laws are passed by the Assembly of the Republic of North Macedonia, which holds the legislative power in the country.

Public law encompasses the relationship between the individual and the state and is enforced mainly by the public bodies through procedures before public authorities.

Private law covers the relationship between individuals (e.g. contracts, property, inheritance etc.) and is codified in various laws. The most important law is the Law on Obligations, representing the basic legal instrument for regulating contractual relations. Furthermore, there are many other laws for specific fields (e.g., company law, employment law, tax law, e-commerce, trade law).

Criminal law is mainly codified in the Criminal Code (substantive law) and the Law on Criminal Procedure (procedural law).

Executive power is the hands of the Government of North Macedonia, while the judicial power is performed by the courts, organized in several jurisdictional layers, including primary courts, appellate courts, the Administrative Court, the Higher Administrative Court and the Supreme Court of North Macedonia. The Constitutional Court is also important, as it protects the constitutionality and legality of legal acts, as well as rights of the citizens of North Macedonia.

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STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

Largest number of companies in North Macedonia are established as **limited liability companies (LLC), single person limited liability companies (SPLLC)** and as of late startups have an option to establish a **simplified limited liability company (SLLC)**. The SLLC was introduced in the in 2021, as a result of the changing startup ecosystem.

The LLC is a legal entity in which up to fifty natural or legal persons as shareholders participate with one stake in the pre-agreed basic share capital of the company. The basic share capital of a company is consisted of the monetary or in-kind contributions, and it cannot be less than 5,000 euros (in Macedonian denars equivalent). Shareholders in an LLC are liable for the obligations of the company solely up to the value of their contribution.

Considering the goal of providing an opportunity to natural persons that have innovative ideas, North Macedonia introduced the simplified limited liability company (SLLC). With a minimum basic share capital requirement of one euro, startups that do not have enough funds in the amount of at least 5,000 euros of founding capital are enabled to put their ideas into practice.

The procedure for establishing a company with the Central Registry in North Macedonia is quite simple. Almost all companies are registered online through an electronic procedure, through a registration agent authorized by the Central Registry. It is possible to pay the founding capital within one year as a monetary or an in-kind contribution.

ENTERING THE COUNTRY

North Macedonia has implemented various measures to attract foreign direct investments (FDI), fostering equal opportunities for foreign investors, offering numerous incentives to encourage investment. There are no general restrictions on foreign investors. The country has established fourteen free economic zones or technological industrial development zones ("**TIDZ**") with developed infrastructure and possibilities to apply for individualized state aid. The Directorate for Technological Industrial Development Zones ("**TIDZ Directorate**") is the primary point for all investors who want to invest in the TIDZ (see more on this in the answer to question 10).

Invest North Macedonia is the official government agency, responsible for promoting and attracting FDI in North Macedonia as well as boosting export. The country also has concluded numerous bilateral investment protection treaties (BITs) and other multilateral conventions that impose stricter standards for protection of FDI. The country is part of the CEFTA trade agreement, and other important foreign investment instruments, such as the ICSID convention. The Constitution stipulates that a foreign national in North Macedonia may acquire property rights under conditions set by law. Furthermore, the Constitution guarantees a foreign investor the right to the free transfer of invested capital and profits. A foreign person may establish the same types of companies as nationals of North Macedonia and may also be a sole proprietor (individual businessperson).

North Macedonia is especially open to foreign investment in the field of information technology and has witnessed growth in recent years. The low corporate tax rate of 10%, financial support to IT companies through grants for creating new jobs and other financial incentives enable such development.

NORTH MACEDONIA

INTELLECTUAL PROPERTY

North Macedonia recognizes various intellectual property (IP) rights, which can be protected under the applicable legislation. The Law on Industrial Property of North Macedonia ("**IP Law**") governs IP rights, whereas the Law on Copyright and Related Rights of North Macedonia ("**Copyright Law**") governs copyright. The most relevant IP rights for startups which should be considered are trademark, patent, industrial design and copyright.

Please find below a short overview on IP rights and the required procedures.

Trademarks

What is protectable? A sign that can be displayed graphically and that is eligible for distinguishing the goods or services of one participant in the trade from the goods or services of another participant in the trade. A trademark protects signs which are capable of being distinguished, such as: words, letters, numbers, pictures, drawings, combinations of colours, three – dimensional shapes, including shapes of the goods or their packaging, as well as combinations of all the aforementioned signs.

Where to apply? The procedure for recognition of a trademark is initiated by filing a trademark application to the State Office for Industrial Property ("**SOIP**"), on a specific prescribed form, accompanied by documents prescribed with the IP Law. The applicant may also file an application for international registration of the trademark in accordance with the Madrid Agreement and the Madrid Protocol. The application for international registration is filed through the SOIP, on a specifically prescribed form. The SOIP conducts a formal and substantial examination of the application. If there are no reasons for the refusal of the application and the sign is not excluded from protection, the data from the application is published in the Official Gazette of the SOIP after a prior fee for the costs for publication is paid by the applicant. Following the publication, any legal entity or natural person may submit a notice for opposition to the SOIP. After the expiry of 90 days deadline, and if no opposition has been filed, the SOIP invites the applicant to pay the prescribed fee before adopting a decision recognizing the trademark right and entering the recognized right in the register of trademarks. If the trademark application has been filed in accordance with the mandatory contents of the application prescribed with the IP Law, the applicant acquires priority right as of the date of filing of the application.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for ten years as of the date of application. The registration can be renewed an unlimited number of times for a period of ten years, upon submission of an application for renewal and payment of the appropriate prescribed fee.

Costs? The application fees (including administrative fees) for registering a trademark are approx. EUR 125 for up to three classes. For each additional class approx. EUR 20 is paid.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? A patent protects an invention in all technology fields, if the invention is: (i) novel; (ii) has an inventive contribution; and (iii) is applicable in the industry. If these conditions are met, a patent also protects an invention referring to a product composed of or containing biological material, and a procedure for obtaining biological material, its processing or use.

Where to apply? The procedure for patent recognition is initiated by filing an application to the SOIP, on a specific prescribed form, accompanied by documents prescribed with the IP Law. If the application is submitted in a foreign language, a Macedonian translation should be provided.

Duration of protection? The duration of patent protection depends on the type of substantive examination conducted by the SOIP. If the patent application is granted following an incomplete substantive examination, the patent right remains valid for a period of 10 years from the filing date of the application. If the patent application is granted following a complete substantive examination, the patent right remains valid for a period of 20 years from the filing date of the application. The validity of the patent right can be extended for more than 20 years, but not more than five years, if the subject matter of the patent is a medical product, a product for protection of plants or a process for their production which have to undergo an administrative procedure for approval prescribed by law before they are placed on the market.

Costs? The application fee (including administrative fees) for registration of patents is approx. EUR 110.

Employee invention and inventor bonus? Pursuant to the IP Law, the natural person who has created the invention by his/her inventive work, or his/her legal successor may initiate a procedure for recognition of the patent right. An employer is considered the legal successor of an inventor if it is entitled to acquire a patent for an invention created in the course of the inventor's employment based on a law or an employment contract. Pursuant to the Copyright Law, in the event that a work of authorship is created by an employee in the course of fulfilling his work duties or on the instructions of the employer, it is considered that the material rights of the author of that work are exclusively transferred to the employer for a period of five years after the completion of the work, unless otherwise determined by the employment contract or a collective agreement. After the expiration of this term, the material rights belong to the employee. However, the employer can request their exclusive transfer again, pursuant to payment of a suitable compensation to the employee for each separate type of material right. In North Macedonia, software is protected as copyright (as elaborated below), instead of a patent. As an exception, the material rights of computer programs (software) are transferred to the employer unlimitedly, unless otherwise specified with an agreement.

Industrial Design

What is protectable? Industrial design protects a design which is new and has an individual character. A design is the outer appearance of the whole or a part of a product resulting from its features, in particular the lines, contours, colours, shape, texture and materials out of which the product is made or decorated, as well as/or its ornamentation.

Where to apply? The procedure for recognition of industrial design is initiated by filing an application to the SOIP, on a specific prescribed form, accompanied by documents prescribed with the IP Law.

Duration of protection? The industrial design right remains valid for a period of five years. The validity can be extended for a period of up to five years, but not more than 25 years.

Costs? The application fee (including administrative fees) for registration of an industrial design is approx. EUR 110.

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? An intellectual and individual craftwork from the field of literature, science and art, expressed in any manner or form. Copyright protection is granted immediately with the creation of work. No registration is required.

The Copyright Law treats computer programs (software) as written work, which is considered a work of authorship, protected by copyright. An author is considered a natural person who has created the work.

Duration of protection? Copyright protection ends 70 years after the author has passed away. However, the moral rights of the author do not expire.

Exploitation of copyright protected work? Copyright owners have the exclusive right to exploit the work and the right to be named as author. The author may grant third parties non – exclusive or exclusive rights to use the work. Moral rights cannot be transferred.

Trade Secrets

North Macedonia does not have a lex specialis governing the protection of trade secrets, even though several laws have provisions regulating trade secrets (Labor Law, Companies Law, Law on Obligations, etc.). Furthermore, the Ministry of Economy of North Macedonia and the SOIP are obliged to harmonize the IP Law with the EU Directive on trade secrets. For this purpose, a draft Law on Protection of Trade Secrets of North Macedonia has been prepared.

Note that this draft law is still in the preparatory phases, and it is currently published on the website of the National Electronic Registry of Regulations of North Macedonia. Its purpose is to protect uncovered knowledge and experiences and trade information (trade secrets) from unlawful acquisition, use and disclosure.

There is currently no publicly available information on the expected timeline for adoption of the new legislation on trade secrets.

DATA PROTECTION/PRIVACY

Processing of personal data in North Macedonia is regulated with the Law on Personal Data Protection of North Macedonia ("**DP Law**"). The DP Law is harmonized to a great extent with the General Data Protection Regulation of the European Union (EU GDPR), although there are some differences. In general, the principles of data processing, the key obligations and rights are almost identical to the ones prescribed with the EU GDPR. However, the DP Law contains notable differences, especially regarding transfers of personal data outside of North Macedonia, appointing a legal representative (for foreign controllers/processors), etc. The competent body for protection of personal data is the Agency for Personal Data Protection of North Macedonia ("**DP Agency**").

Key obligations under the DP Law

The DP Law prescribes the same set of key obligations as outlined in the EU GDPR. To summarize, the following should be noted:

1. Processing of personal data must comply with the general principles of data protection: lawfulness, fairness and transparency; purpose limitation; data minimization; accuracy; storage limitation; integrity and confidentiality.
2. Processing of personal data must rely on at least one of the prescribed conditions under which the processing would be deemed lawful: consent; performance of a contract; compliance with a legal obligation; protecting the vital interests of the data subject or another natural person; legitimate interests. The lawful basis should be determined on a case-by-case basis.
3. Processing of special categories of personal data is prohibited, unless an exception prescribed in the DP Law applies.
4. Data subjects must be informed in a concise, transparent, intelligible manner which is easily accessible, using clear and plain language, in situations where his/her personal data is both collected or not collected from the data subject. The DP Law prescribes the exact information which the controller must provide to the data subject, usually through a privacy notice. This information should be provided in Macedonian language (and possibly Albanian language, where applicable).
5. Controllers are obliged to implement appropriate technical and organizational measures to ensure a level of security of the processing of personal data appropriate to the risk.
6. Data subjects are granted a certain set of rights which they can exercise under the DP Law (i.e. right of access; right to rectification; right to erasure (right to be forgotten); right to restriction of processing; right to data portability; right to object to processing of personal data concerning the data subject; right not to be subject to automated decision making, including profiling).
7. When using new technologies for a type of processing, according to the nature, scope, context and purposes of the processing, there is a likelihood that it will cause a high risk to the rights and freedoms of natural persons before the processing is carried out, the controller is obliged to carry out a data protection impact assessment of the intended processing operations in relation to the protection of personal data.
8. In situations when processing is carried out on behalf of a controller, the controller will only use processors that provide sufficient guarantees to implement appropriate technical and organizational measures which will meet the requirements under the DP Law. For this purpose, controllers and processors must conclude a data processing agreement.
9. Non-compliance with the DP Law may lead to fines for legal entities (controllers/processors) of up to 2% and up to 4% of the total annual turnover from the previous financial year per misdemeanour. Smaller fines of several hundred euros are envisioned for the responsible person within the legal entity per misdemeanour.
10. Without prejudice to any available administrative or non-judicial remedy, including the right to submit a request/complaint to the DP Agency, data subjects have the right to effective judicial protection when their rights determined under the DP Law have been violated.

DATA PROTECTION/PRIVACY, CONT'D

Transfer of Personal Data outside of North Macedonia

The DP Law explicitly regulates transfers outside of North Macedonia. When transferring personal data to member states of the European Union (EU), European Economic Area (EEA) and the North Atlantic Treaty Organization (NATO) controllers/processors must notify the DP Agency at least 15 days prior to the transfer, on a prescribed form. Other than the notification, no additional approvals are required.

Note that proposed amendments to the DP Law have been announced which, if adopted, would eliminate the reference to NATO member states from the exception allowing data transfers to those member states based solely on a notification to the DP Agency. Instead, transfers to NATO member states that are not part of the EU/EEA would once again be treated as transfers to third countries and would therefore be subject to the applicable safeguards and requirements governing such transfers.

Transfer of personal data to third countries and international organizations is a bit more complex. Controllers/processors are required to submit a request for approval of such transfer to the DP Agency at least 15 days prior to the transfer, unless an exception applies (i.e. an adequacy decision adopted by the DP Agency). The DP Agency has not yet adopted any adequacy decisions, and it does not recognize the adequacy decisions adopted by the European Commission. In the absence of an adequacy decision, controllers/processors should rely on other appropriate safeguards prescribed with the DP Law. These include standard contractual clauses adopted by the DP Agency or the European Commission, binding corporate rules, etc. The DP Agency also generally requires the submission of a performed transfer impact assessment with each request for obtaining approval for transfer of personal data to third countries or international organizations (notwithstanding other documents, including contracts concluded between the data importer and the data exporter, etc.).

Appointment of a Local Representative in North Macedonia

Under the DP Law, foreign data controllers/processors are required to appoint a local representative in North Macedonia to ensure compliance, when the processing activities fall under the applicability of the DP Law. A local representative is not appointed in situations where processing is occasional and does not involve to a great extent processing of special categories of personal data, or processing of personal data related to criminal convictions and criminal offenses which is unlikely to cause a risk to the rights and freedoms of natural persons, considering the nature, context, scope and purposes of the processing.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in North Macedonia, yet. However, the general restrictions, particularly under data protection, intellectual property, copyright and cybersecurity legislation apply.

It is to be expected that the relevant authorities will be making efforts to transpose the framework of the Regulation on Artificial Intelligence of the European Commission into national legislation.

EMPLOYEES/CONTRACTORS

General
Foreign entities cannot directly employ workers in North Macedonia on the basis of an employment contract unless they have a registered presence in the country (i.e. established legal entity or branch or representative office). There are however possibilities to engage workers without having a local presence, based on service agreements (which do not result in establishing an employment relationship) or through private employment agencies licensed in North Macedonia for employee leasing. In service agreements, the rights from employment relationship provided by the Labour Law of North Macedonia ("**Labour Law**") do not have to be granted to the contractor, however these agreements also cannot contain elements of an employment relationship. It should be noted that service agreement must not be used for performance of activities that fall under job descriptions of active job positions in the entity as it can be seen as breach of the Labour Law and the entity may be fined by the national Labour Inspectorate due to avoiding to provide workers with rights under employment. With respect to engagement of workers through private employment agencies, the agency acts as employer and is obliged to provide the employee with all rights under employment, whereas the employer-user to whom employees are leased, only pays the agency expenses for the employee's gross salary and agency fees. In this engagement the foreign entity would have additional expenses in the form of agency fees that it would need to pay to the agency for the mediating services.

Engaging local workers without having a registered presence may be associated with the risk of meeting the conditions for having a permanent business establishment in North Macedonia for corporate tax purposes. Depending on the type of work and the duration thereof, foreign companies should have this in mind to conduct a tax analysis beforehand.

For entities who have a presence in North Macedonia, under the Labour Law, workers may be engaged on the basis of an employment contract for a definite or indefinite term and on fulltime (40 hours per week) or part-time basis. The employment contract needs to be in a written form, stipulating all mutual rights and obligations. Employees have certain basic rights prescribed by the Labour Law, such are the right to a minimal salary, safety and health at work, personal dignity, as well as the right to annual leave (vacation), rest during the day and week, parental leave, sick leave etc.

Foreign employees may only enter into an employment relationship if they obtain a work permit and an adequate permanent or temporary residence permit.

Work for hire
Employers can engage a person based on a "work for hire" agreement only for the purpose of performing tasks that are outside the employer's activities, in order for the person to independently execute a certain physical or intellectual work or produce or repair a certain item. It should be noted that "work for hire" should not be used for performance of activities that fall under job descriptions of active job positions in the entity as it can be seen as breach of the Labour Law and the entity may be fined by the national Labour Inspectorate.

Taxes and social security contributions
Employers are obliged to register employees with the Employment Agency of North Macedonia which is directly linked to the systems of the Social Security and Pension and Disability Insurance Funds of North Macedonia, as well as the Public Revenue Office of North Macedonia. Each of these institutions is responsible for the receipt of respective contributions and taxes related to employment. When the employee is registered and employment is established, the employer has to calculate and pay a monthly amount of gross salary (which includes personal income tax and social security contributions). Contributions are not paid for service contractors and their fees are only subject to personal income tax.

EMPLOYEES/CONTRACTORS

Termination
An employer may unilaterally terminate the employment relationship only in cases stipulated by the Labour Law. Basically, there are 3 groups of reasons:

1. causes which relate to employee's work ability and their conduct (e.g., not achieving the work results, not having necessary knowledge and skills to perform their duties etc.) –"personal reasons of the employee";
2. causes which relate to breach of the work order and discipline by the employee (e.g., negligence in performing work duty, irresponsible use of means of work, abuse of sick leave etc.) – "reasons of fault"; and
3. causes which relate to the employer's functioning and business operations, technological, economic, or organizational changes at the employer – "business reasons" (i.e. redundancy and mass-layoffs).

In addition, employment can be terminated mutually by virtue of settlement as well as due to expiration of definite term employment contract, employee's resignation or other reasons determined by law.

In any case, it is important to note that in case of termination a strict and formal procedure must be conducted – otherwise, there is a high risk of the (former) employee initiating a court procedure before the competent court in order to protect their rights. The courts in North Macedonia are rather rigid and inclined towards protection of the employees when it comes to interpretation of law provisions with respect to the termination procedure.

CONSUMER PROTECTION

Relations with consumers are generally regulated by the Law on Consumer Protection of Republic of North Macedonia ("**Consumer Protection Law**"). The Consumer Protection Law transposes various EU directives related to consumer protection and applies to both local and foreign traders which supply goods or provide services in North Macedonia.

The Consumer Protection Law offers legal solutions for better informing and educating consumers as well as providing instruments for resolution of disputes and market supervision. It governs prohibition of unfair commercial practices and of using unfair contractual provisions in consumer contracts. The specific examples of unfair commercial practices and contractual provisions are mostly the same or very similar to the ones mentioned in the EU regulations. Also, the recently adopted Law on the Prohibition of Unfair Trade Practices in the Supply Chain of Agricultural and Food Products of North Macedonia, which is harmonized with the EU regulations, addresses unfair trade practices within the agricultural and food supply chain. However, this law specifically targets transactions between suppliers and buyers registered in North Macedonia, excluding relationships between suppliers and consumers.

The Consumer Protection Law also regulates distance contracts, the special forms of marketing and the right to submit a consumer complaint. In addition, the role of consumer organizations is regulated more precisely, both at the national and local levels.

Under the Consumer Protection Law, traders should use both Macedonian and Albanian language, which applies among other things to the following:

- packaging, stickers, instructions, declarations, and/or other appropriate documents providing product/service information to the consumer;
- documents prepared by the manufacturer, importer or wholesaler for the easier and safer use of the goods/services;
- pre-contractual information about distance contracts, off-premises contracts and/or contracts concluded on an online sales area, etc.

Generally, the rules on commercials are provided in the Law on Audio and Audiovisual Media Services of North Macedonia. In this regard, depending on the business activity, other laws (such as the Law on E-Commerce of North Macedonia) may also be applicable.

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TERMS OF SERVICE

Yes. Terms of service are binding for the other contracting party if the party was made aware or had to be made aware of their content, at the moment of conclusion of the contract. Usually, traders ensure compliance with these obligations through a checkbox mechanism related to the content of the terms of service, which consumers are required to select when completing a purchase.

The terms of service have to be drafted in accordance with the consumer protection regulations and must not include unfair contractual provisions, such as:

- excluding or limiting the trader's liability for consumer injury or death caused by the trader's actions;
- binding the consumer to the contract, while the trader's obligations depend solely on their will;
- allowing the trader to keep payments if the consumer withdraws from the contract, without a reciprocal right for the consumer if the trader terminates the contract;
- requiring the consumer to pay disproportionate compensation for unfulfilled obligations;
- granting the trader the unilateral right to terminate the contract, with no such right given to the consumer, and allowing the trader to retain payments, even if the trader has not fulfilled its obligations towards the consumer in the event that the trader terminates the contract, etc.

Authorized entities (such as the Organizations of Consumers Macedonia, Organization of Consumers Ohrid, etc.), to safeguard the collective interests and rights of consumers, in the context of unfair contractual provision, may commence proceedings before an appropriate court or market surveillance authorities seeking to determine that a contractual provision is unfair and request a prohibition to use such provision.

Online terms of service can also be deemed as pre-contractual information about distance contracts. As such, in accordance with the Consumer Protection Law, they must be provided in both Macedonian and Albanian language.

TAX/FUNDING

The relevant tax regulations in the country include the Law on Corporate Income Tax ("**CIT Law**"), the Law on Value Added Tax of Republic ("**VAT Law**"), as well as the Law on Personal Income Tax ("**PIT Law**"). There are also legal regulations on property taxes. The competent tax authority is the Public Revenues Office of North Macedonia.

North Macedonia offers a favorable tax environment with a personal income tax rate of 10%, a corporate income tax rate of 10%, and a VAT rate of 18%.

Under the **CIT Law**, the basis for corporate income tax is the profit determined in the tax balance sheet. It is calculated as the difference between the total revenues and total expenses of the taxpayer, in amounts established in accordance with accounting regulations and standards. The tax basis is also adjusted for the amount of non-deductible expenses incurred during the fiscal year.

The **VAT Law** is generally aligned with the EU VAT regulations. While the standard rate is 18%, there are preferential rates of 5% and 10% for turnover of certain goods and services. All taxpayers whose total annual turnover exceeds MKD 2 million or whose total supplies, as projected at the beginning of the business activity, will exceed this amount are liable to register for VAT purposes. Taxpayers can also voluntarily register for VAT purposes within legally prescribed deadlines.

TAX/FUNDING, CONT'D

In accordance with the **PIT Law**, employers are obliged to calculate and withhold from the gross salary of employes, the personal income tax. Employment income includes, among other:

- salary and salary compensations from employment and payments based on the employer's business success;
- acquisition of securities and participation in the capital of the employer and related parties to the employer, without compensation or at a price lower than the market price;
- compensations in times of employee sickness;
- compensations in times of absence from work, etc.

Potential Subsidies:
North Macedonia also features the TIDZ, which provide a range of benefits for investors. In the TIDZ, investors can be exempt from corporate income tax and personal income tax of employees for the first 10 years as of the commencement with operation. Under certain conditions, they can also be exempt from paying VAT on the import and trade of goods within TIDZ and may not need to pay certain customs duties.

Additionally, investors can use land in TIDZ through long-term leases of up to 99 years at reduced rates. There are no utility fees to be paid to the local municipality, and no construction permit fees are required for the land. Investors also receive free connections to natural gas, water, and sewage networks. Furthermore, the government offers support for investment by refunding 10% of the costs for new machinery, equipment, buildings, or land, helping to stimulate capital growth.

The Law on Financial Support for Investments of North Macedonia regulates the types, amount, conditions, manner and procedure for granting financial support for investments to business entities that will invest in North Macedonia.

The TIDZ Directorate and Invest North Macedonia are responsible for managing the financial support process. For projects in TIDZ managed by the Directorate, businesses should submit their applications directly to the TIDZ Directorate. For projects outside TIDZ, applications should be submitted to Invest North Macedonia.

Funding

In North Macedonia, most common types of **project financing collateral** are available, but there are some limitations. For example, pledging a bank account is not allowed. The generally used security instruments are:

- establishing a mortgage over real estate;
- establishing a pledge over immovable assets, shares, claims and other rights;
- issuing a promissory note with a promissory note statement in the form of a notarial deed with enforcement clause, etc.

Security instruments usually require notarization and registration in the appropriate public registry (either the Pledge Registry or the Real Estate Cadastre).

Foreign Bank Accounts: Although international lenders might want to pledge a bank account overseas, this is not a feasible option in North Macedonia. Residents need approval from the National Bank to open a foreign account, and the account can only be used for specific purposes, which do not typically include project financing.

TAX/FUNDING, CONT'D

Funding, CONT'D

Loan Reporting Requirements: Residents must report any credit agreements with non-resident lenders to the National Bank. This includes various types of loans, like long-term loans, financial leasing, and commercial credit. The reports are primarily for statistical purposes. Any changes or repayments of reported loans also need to be communicated to the National Bank.

Joint Reporting: Some credit instruments like surety bonds, guarantees, and mortgages/pledges must be reported on a monthly basis.

WHAT ELSE?

In February 2026, the Agency for Innovation and Technology Development ("**INOVA**"), with financial support from the European Union and the Government of North Macedonia, launched the "Green Businesses Grant Scheme 2026–2030," with a total budget of EUR 25 million. The programme aims to support at least 300 small and medium-sized enterprises through grants and to mobilise at least EUR 8 million in additional private investment, in order to accelerate the green transition and promote environmentally sustainable business practices.

The programme will be implemented between January 2026 and January 2030 and is expected to contribute to the adoption of EU and international environmental standards, the creation of approximately 700 new jobs, and increased competitiveness and turnover of beneficiary companies. This initiative represents one of the most significant public investments in green innovation and startup-related business development in North Macedonia to date.



PERU

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PERU

LEGAL FOUNDATIONS

The legal foundations of Peru are based on its constitution and its legal system, which is primarily derived from civil law traditions. The current constitution of Peru was adopted in 1993.

Key components of Peru's legal foundations include:

- Constitution: The constitution of Peru is the supreme law of the land, outlining the structure of government, the rights and responsibilities of citizens, and the principles upon which the legal system operates. It establishes the separation of powers among the executive, legislative, and judicial branches of government.
- Civil Code: Peru's Civil Code, enacted in 1984, governs private law matters such as contracts, property rights, family law, and inheritance.
- Criminal Code: Peru's Criminal Code defines criminal offenses and prescribes penalties for violations of the law. It also outlines procedures for criminal investigations and trials.
- Administrative Law: Administrative law in Peru governs the activities of government agencies and regulates interactions between individuals and the state.
- International Treaties and Agreements: Peru is party to various international treaties and agreements that influence its legal framework, including human rights conventions, trade agreements, and environmental treaties.

Regarding jurisdictional layers, Peru is divided into several administrative and territorial units, each with its own level of government and legal authority. The important jurisdictional layers in Peru include:

- National Level: At the national level, Peru is governed by the central government, which includes the executive, legislative, and judicial branches based in the capital city of Lima.
- Regional Level: Peru is administratively organized into 26 regional-level jurisdictions, comprising 24 regional governments for each department, the Constitutional Province of Callao, and the Metropolitan Municipality of Lima, , each with its own regional government. Regional governments have authority over matters such as economic development, transportation, and regional planning.
- Local Level: Within each region, there are numerous local governments, including provinces, districts, and municipalities. Local governments are responsible for providing basic public services, such as education, healthcare, sanitation, and public safety, to their constituents.

Overall, Peru's legal structure is characterized by its civil law tradition, codified laws, and a system of government with multiple jurisdictional layers at the national, regional, and local levels.

PERU

CORPORATE STRUCTURES

Startups are companies that focus on innovation and the development of new products and services, primarily leveraging information technologies. These businesses, like any other, consist of a combination of capital, expertise, and workforce. However, what sets startups apart is their emphasis on creating and introducing novel solutions to the market, often driven by technology. The purpose of this chapter is to be a simple and user-friendly guide for creating and operating a startup in Peru, with an emphasis on societary aspects.

What type of company do I need to establish?
First It is necessary to be familiar with the existing types of companies in Peru and determine which one is most convenient according to the needs of the business and the General Law of Companies of Peru, Law No. 26887. The most commonly used business forms are Anonymous Societies and Limited Liability Companies because they offer flexibility in the structuring and management of the company and provide limited liability for partners or shareholders. This means that their liability is limited to the amount of their contribution to the social capital, providing greater personal protection for investors. Following we will explore the subject in grater detail.

Anonymous Companies

There are three types of Anonymous Companies: Ordinary Anonymous Company, Open Anonymous Company, and Closed Anonymous Company.

Ordinary Anonymous Company (S.A.)

Ordinary Anonymous Companies must have a minimum of 2 shareholders and a maximum of 750. If an Ordinary Anonymous Company exceeds this limit, it is classified as an Open Anonymous Company.

The General Shareholders' Meeting, as the supreme body, has the authority to decide on fundamental aspects of the company. This includes the modification of the social bylaws, the merger, division, or reorganization of the company, capital increase, appointment and removal of the general manager, approval of the social management, dissolution, and liquidation, among others. Each decision is recorded in minutes and attached to the corresponding Minute Book.

The administration of the company is entrusted to the Board of Directors and the General Manager. The Board of Directors, a collegiate body elected by the General Meeting, must have a minimum of three directors, confirmed by the General Meeting, with a term of office for specified periods, not exceeding three years nor less than one. The position is remunerated, and the determination of such remuneration is established in the bylaws or by decision of the board.

It is important to note that the position of director is limited to natural persons, without restrictions on nationality or residence in Peru. In contrast, the position of General Manager can be held by a legal entity or a natural person, provided they are domiciled in Peru.

Open Anonymous Company

The Open Anonymous Company is a type of commercial company with a significant capital level, requiring a minimum of 750 shareholders. Additionally, it must register all its shares in the Public Registry of the Securities Market to be offered to the general public. It is essential to highlight that limitations on the transfer of shares are not allowed.

Closed Anonymous Company

In this type of company, the number of shareholders must range from 2 to 20. The Closed Anonymous Company does not register its shares in the Public Registry of the Securities Market and has a legal framework very similar to the Ordinary Anonymous Company. The right of preferential acquisition is established, granting every shareholder the faculty to acquire, with preference over third parties, the shares that other members of the company wish to sell. Despite this, the General Law of Companies allows the inclusion of other agreements and timelines for the transfer of shares and even the elimination of this right according to the will of the shareholders.

The management of the company is under the responsibility of the General Manager and, if applicable, the Board of Directors, although the bylaws may establish the absence of the latter. In situations where it is decided to do without the Board of Directors, the General Manager will assume all the responsibilities established by the General Law of Companies for this body.

On the other hand, the holding of the General Shareholders' Meeting can be carried out in a non-presential manner, using any means that allows written, electronic, or other communication, provided it guarantees the authenticity of the process.

CORPORATE STRUCTURES, CONT'D

Limited Liability Company

The organs of the Limited Liability Company are the General Shareholders' Meeting and the General Management. In contrast to Anonymous Companies, this type of business requires a minimum of 2 partners and a maximum of 20. The capital is divided into equal, acumulative, and indivisible social participations, with no possibility of being incorporated into securities. When transferring participations to third parties, other partners have the right of preferential acquisition, without the option to agree otherwise. Additionally, the transfer of participations must be carried out through a public deed and registered in the Public Registry.

What type of company is recommended to establish for a startup?

A startup typically begins with friends or family, initiating as a small project based on innovation, so it is recommended to establish a Closed Anonymous Society. This corporate structure is specifically designed for "family businesses," streamlining decision-making processes swiftly and with lower costs. Additionally, it is essential to consider that, if shareholders decide to transition to another type of company, the General Law of Societies allows the possibility of transforming the business into a different corporate form, contingent upon prior agreement from the General Shareholders' Meeting.

Finally setting up a closed anonymous company for a startup entails the possibility of convening the General Shareholders' Meeting through private communications addressed to the shareholders. Moreover, it allows conducting General Meetings remotely, facilitating the approval of agreements without the need for physical gatherings. Likewise, share transfers are carried out privately. This scenario contrasts with the Limited Liability Company, where such actions need to be registered in the Public Records.

ENTERING THE COUNTRY

Peru promotes equal treatment between foreign and domestic investors, providing a favorable environment for foreign startup companies. The main regulations supporting this principle include Legislative Decree No. 662, Legislative Decree No. 757, and Supreme Decree 162-92-EF. These regulations guarantee:

- Equality of treatment for national and foreign investors, without discrimination.
- Freedom in trade, industry, export, and import.
- Possibility to repatriate profits or dividends abroad after tax payment.
- Guarantee of holding and use of foreign currency.
- Right to choose the most favorable exchange rate in the market.
- Freedom to re-export invested capital.
- Unrestricted access to domestic credit.
- Freedom to contract technology and send royalties.
- Right to acquire shares from national investors.
- Option to contract insurance for foreign investment.
- Possibility to subscribe to legal stability agreements with the State.

Forms of Foreign Investment

Foreign startup companies have various options to invest in Peru, including:

- Direct investment in share capital.
- Contributions for contractual joint ventures.
- Investments in local goods and properties.
- Portfolio investments.
- Intangible technological contributions.
- Other forms of investment that contribute to the country's development.

ENTERING THE COUNTRY, CONT'D

Access to Economic Sectors

Most economic activities in Peru allow foreign investment without restrictions and do not require prior authorization. However, some activities such as air and maritime transport, private security, investments in protected natural areas, and the manufacture of war weapons have restrictions on foreign investment.

Property Rights and Freedom of Organization

Property rights are inviolable in Peru, although expropriations may occur with prior compensation. Foreigners have the same property rights as Peruvian citizens, with certain restrictions in areas near borders. Companies have the freedom to organize and develop their activities as they see fit, within the limits established by regulations related to industrial safety, environmental conservation, and health.

INTELLECTUAL PROPERTY

There are two main branches of intellectual property: 1. industrial property, which protects products and creations used in industry or commerce, such as trademarks, patents, and industrial designs; and 2. copyright, which protects artistic, literary, and scientific creations.

Industrial property consists of two major categories: distinctive signs and inventions. Within distinctive signs, the most common and widely used tool is the trademark. Trademarks are signs that identify a product or service in the market and can be renewed indefinitely.

On the inventions side, there are two main types of protection: patents of invention, which cover new and novel technical solutions, and utility models, which provide protection for technical improvements to existing inventions.

On the copyright side, the copyright is exclusively inherent to the person; however, within the copyright itself there may be moral rights, which are unwaivable, unseizable and imprescriptible in favor of the authors; and economic rights, which are all the rights that the author has to be able to profit from his work. Only in the case of economic rights, these can be assigned, sold, transferred, etc. So, what copyright will seek, precisely, is to protect all types of creations, of original character, which may be related to any order, to any type of direction with respect to art, it may be painting, music, literature, drawings, sculpture, etc.

Trademarks must be registered to obtain protection, while copyright protection is automatic upon creation and does not require registration. Inventions, including patents of invention and utility models, must be registered with the corresponding national authority to be legally protected.

Finally, the distinctive signs, as a rule, are granted for a term of ten years, after which it can be renewed every ten years in an unlimited manner. This does not happen with inventions and new technologies, invention patents, which are the highest recognition at the inventive and development level of a technical solution, are protected for a term of 20 years, while utility models, which are technical improvements to something already existing, are granted for a term of ten years. After which, both enter the public domain.

On the other hand, there is specific legislation on trade secrets, which is contained in and regulated by Andean Decision 486, Common Regime on Industrial Property, as well as Legislative Decree 1044, Law for the Repression of Unfair Competition. The protection provided by these regulations applies only to the Peruvian territory. However, a trade secret, by its nature, will constitute confidential information in any part of the world (which has regulations on the matter), as long as it has not been disclosed. In order to be protected, it must comply with 3 requirements at the same time: 1. to be secret, 2. to have commercial value (because it is secret) and 3. to have been subject to reasonable measures of protection. reasonable measures of protection. The trade secret is protected for an indefinite period of time, subject to the conditions set forth above remaining in force.

DATA PROTECTION/PRIVACY

The Peruvian data protection regime comes from the Political Constitution of Peru, which provides that computer services, computerized or not, public or private, do not provide information that affects the personal and family privacy of individuals.

Likewise, the applicable regulations consist of Law 29733, Law for the protection of personal data and the Regulation of Law No. 29733. The National Authority for the Protection of Personal Data (Autoridad Nacional de Protección de Datos Personales) operates within the Ministry of Justice and Human Rights and serves as the supervisory authority responsible for ensuring compliance with data protection regulations. This authority has powers to conduct inspections, investigate complaints, impose administrative sanctions ranging from warnings to fines of up to 100 UIT (Tax Units), and order corrective measures. For startups handling personal data, it is essential to register their personal data banks with this authority and maintain updated registrations, as failure to do so may result in administrative sanctions.

On November 30, 2024, Supreme Decree No. 016-2024-JUS was published, approving the new Regulations of Law No. 29733 – Personal Data Protection Law. This new regulatory framework constitutes a comprehensive update of the previous regulations, adapting to the challenges and demands of the current digital environment.

Key Aspects of the New Regulations

1. New Guiding Principles:
Transparency: The processing of personal data must be clear, understandable, and accessible at all times.

Proactive Responsibility: Entities must implement technical, organizational, and legal measures to ensure regulatory compliance, demonstrable before the competent authorities.

2. Right to Data Portability:
Data subjects may request the transfer of their information in a structured and machine-readable format to another data controller, where technically feasible.

3. Security Incident Notification:
It is mandatory to report any security breach to the National Authority for Personal Data Protection within 48 hours, including measures adopted to mitigate its impact.

4. Appointment of a Personal Data Protection Officer:
It is mandatory for public and private entities that carry out significant data processing or handle sensitive data.

5. Privacy Impact Assessments (PIAs):
Recommended for the processing of large volumes of data, sensitive data, or minors' data, in accordance with international standards such as ISO 27005.

6. Enhanced Security Measures:
Entities must have documented security policies, strict controls over access and data storage, and mechanisms to prevent incidents.

7. Special Processing Rules for Advertising and Minors' Data:
New obligations have been incorporated to ensure adequate data protection in these contexts.

DATA PROTECTION/PRIVACY, CONT'D

Implementation Deadlines

1. General Effective Date:
The regulations entered into force on March 29, 2025.

2. Appointment of a Personal Data Protection Officer:
The obligation to appoint a Personal Data Protection Officer will be implemented progressively, according to the following schedule based on companies' annual sales volumes:

- Companies with annual sales exceeding 2,300 UIT: 1 year after publication, i.e., November 30, 2025.
- Companies with annual sales between 1,700 and 2,300 UIT: 2 years after publication, i.e., November 30, 2026.
- Companies with annual sales between 150 and 1,700 UIT: 3 years after publication, i.e., November 30, 2027.
- Companies with annual sales up to 150 UIT and other equivalents: 4 years after publication, i.e., November 30, 2028.

Important Note on UIT Reference: The UIT (Unidad Impositiva Tributaria or Tax Unit) is an economic reference value updated annually by the Peruvian government. For 2025, the UIT is set at S/ 5,350 (approximately USD 1,400). Therefore, the thresholds mentioned above should be calculated based on this annual reference. For example, companies with annual sales exceeding 2,300 UIT would be those with revenues over S/ 12,305,000 (approximately USD 3.2 million) for the year 2025. Startups should monitor UIT updates annually to ensure compliance with the applicable thresholds.

3. Implementation of the Right to Data Portability:
The right to data portability allows individuals to obtain their personal data in a structured, machine-readable format and transmit it directly to another data controller. This right applies when processing is based on consent or contract and is carried out by automated means, enabling users to switch service providers while maintaining control over their information.

Important note: This right has been enforceable since September 29, 2025. Companies must now have implemented technical systems and procedures to export user data in standardized digital formats upon request, with clear mechanisms for users to exercise this right easily and free of charge.

ARTIFICIAL INTELLIGENCE

Peruvian legislation regarding AI and digital governance encompasses several significant provisions.

- The Digital Government Law establishes a comprehensive framework for data governance and management in the public administration, imposing minimum requirements for data collection, processing, publication, storage, and openness.
- Resolution of the Secretary of Digital Government No. 003-2019-PCM/SEGDI creates the Government and Digital Transformation Laboratory, aimed at fostering cross-sector experimentation and co-design in digital innovation, including the use of emerging technologies such as artificial intelligence (AI).
- Urgency Decree No. 007-2020 establishes the Digital Trust Framework, which requires the ethical use of AI and other data-intensive technologies.

The National Artificial Intelligence Strategy (NAIS) is based on strategic axes such as talent formation and attraction, fostering economic development through AI adoption, promoting the necessary technological infrastructure, facilitating access to high-quality public data, and adopting ethical guidelines for responsible and transparent AI use. Additionally, NAIS aims to foster collaboration both nationally and internationally in the field of artificial intelligence.

PERU

EMPLOYEES/CONTRACTORS

What does a foreign entity briefly needs to know about engaging employees or contractors in your country?

The Peruvian labor regime of the private sector contemplates the possibility of hiring workers for an indefinite or fixed term.

The employment contract is for an indeterminate or indefinite term provided that three (3) essential elements of an employment relationship are identified (personal rendering of services, subordination and remuneration). Fixed-term or fixed-term employment contracts are those that imply the rendering of services of a temporary nature, for which reason the existence of some justification or objective cause that supports such temporality will always be required.

Indefinite-term employment contracts

These employment contracts may be entered into verbally or in writing. The employment relationship begins on the day on which the effective rendering of services in a subordinate manner and with the consideration of a remuneration. Additionally, the first three (3) months of the rendering of services will be considered as a trial period, so during this time the employer will evaluate if the employee meets the requirements to perform in the agreed job. If the employee is not qualified to render the service, the employer may dispense with the employee's services without the need to invoke a just cause for dismissal.

Fixed-term employment contracts

They are agreed exceptionally and provided that the employer can prove the objective cause of temporary hiring, otherwise it could imply a denaturalization of the referred contract and that it is considered an undetermined term employment relationship (the objective cause must be real and must be verifiable). The employment contract must be executed in writing.

Is there a work for hire regime?

Peru does not have a statutory work-for-hire doctrine equivalent to that found in common law jurisdictions such as the United States. Under Peruvian copyright law (Legislative Decree No. 822), the author of a work is presumed to be its first owner, regardless of whether the work was created during an employment relationship. Therefore, employers seeking to own intellectual property rights in works created by employees or contractors must include explicit contractual provisions addressing the assignment or licensing of such rights.

Are there restrictions on terminations of employees?

If the employer dismisses an employee without just cause, he is obliged to pay compensation.

In the case of workers with indefinite term contracts, it is equivalent to one and a half ordinary monthly remuneration for each year of service of the worker; however, the ceiling of such indemnity is 12 remunerations.

In the case of workers with fixed-term contracts, it is equivalent to one and a half ordinary monthly remuneration for each month remaining until the end of the contract, with a ceiling of 12 remunerations.
In some cases the judge may order the reinstatement of the worker in his job.

Pregnant women and union leaders have special protection against dismissal (null dismissal).

EMPLOYEES/CONTRACTORS, CONT'D

The obligations associated with the remuneration paid to a worker are as follows:

Concept	Benefit
Social Security Health Insurance	9% of remuneration
Bonuses	Two additional remunerations per year in July and December.
Compensation for Time of Service (CTS)	Equivalent to one monthly remuneration per year of service, deposited semi-annually (May and November) in a financial institution designated by the employee. CTS serves as unemployment insurance and social welfare benefit. The calculation includes basic salary and all regular remunerative concepts.
Vacations	30 calendar days per year of continuous service (after completing one year of employment). Vacation entitlement accrues monthly. Vacation time may be reduced by agreement to no less than 7 calendar days, with monetary compensation for the remaining days.
Profit sharing	A percentage of profits (from 5% to 10%) depends of the activity.
Life Insurance	Mandatory for employees with four or more years of service. The employer must contract group life insurance covering death and permanent disability.

CONSUMER PROTECTION

A foreign entity should first be aware that the scope of application of the Consumer Protection and Defense Code, Law No. 29571 (hereinafter referred to as the "Law"), encompasses all instances involving a consumer-provider relationship, whether established or conducted directly or indirectly within the territory of Peru. Such consumer relationships may arise in discrete situations completed in a single act or in those that endure over time.

Under what circumstances does the Peruvian Consumer Protection Authority have jurisdiction?

The Peruvian authority responsible for protecting consumer rights is the National Institute for the Defense of Competition and the Protection of Intellectual Property (hereinafter referred to as "Indecopi"). It has jurisdiction when the contract is both celebrated and executed within the national territory. It also maintains authority when the contract is celebrated in the national territory but executed abroad. In the event that the contract is celebrated abroad but executed in Peru, the Peruvian authority is also competent, especially if the issue is related to the adequacy of the service. However, if the contract is celebrated abroad and executed in Peru, but the problem arises due to incorrect information provided abroad, our authorities would not be competent; instead, it would fall under the jurisdiction of the authorities of the country where the contract was celebrated.

Certainly, in accordance with Peruvian legislation, we shall commence by elucidating the precise definitions of consumer and a provider.

Consumers	Providers
According to Peruvian regulations, individuals, whether natural or legal, who acquire, use, or enjoy products or services as final recipients, for their own benefit or family or social group, are considered consumers.	Providers are natural or legal persons, whether public or private, who, in a habitual manner, manufacture, produce, manipulate, package, mix, package, store, prepare, sell, or supply products or provide services of any nature to consumers.

Main rights of consumers and obligations of Providers

Right to obtain information
This right ensures that consumers have clear and complete access to relevant information about the products or services they are considering acquiring. On the other hand, providers have the obligation to provide accurate and understandable information on various aspects, such as features, prices, terms of use, potential risks, and warranty terms.

Right to suitability
This implies that consumers have the entitlement to receive products or services that are suitable for their specific needs, and, in turn, suppliers have the obligation to ensure the suitability of their offerings, thereby promoting fair and satisfactory transactions.

Right to non-discrimination
Providers cannot establish any discrimination based on origin, race, gender, language, religion, opinion, economic status, or any other kind, regarding consumers, whether they are in or exposed to a consumer relationship. If there is differential treatment towards consumers, it must be based on objective and reasonable grounds.

CONSUMER PROTECTION, CONT'D

Main rights of consumers and obligations of Providers, CONT'D

Right to protection against abusive commercial practices
For consumers, this right implies being treated with honesty and transparency in all commercial transactions. Abusive commercial practices, such as misleading advertising, coercion, or manipulation, are prohibited, and consumers have the right to report and seek redress if they fall victim to such practices.

On the other hand, suppliers are obligated to adhere to ethical and legal standards in their commercial practices. They must refrain from using abusive methods and ensure that the information provided to consumers is accurate, clear, and complete. Additionally, they should respect consumer rights and provide fair treatment in all commercial interactions

TERMS OF SERVICE

In Peru, terms and conditions are linked to compliance with the Consumer Protection and Defense Code (Law No. 29571), regulated and supervised by INDECOPI. The main references are as follows:

- **Information about the service provider:** Clear and accurate information about the identity of the service provider must be provided, including their name, address, contact information, and legal registration.
- **Description of services:** The terms and conditions must clearly describe the services offered, including their main features, terms of use, and any relevant limitations.
- **Payment conditions:** Payment conditions must be clearly specified, including service prices, accepted payment methods, payment deadlines, and any applicable additional charges.
- **Intellectual property rights:** Intellectual property rights over the content and services offered must be clearly established, as well as any usage restrictions for users.

Regarding the terms and conditions that are prohibited in Peru, there are no specific provisions listed. However, terms and conditions that are contrary to the law or infringe upon consumer rights may be considered invalid or unenforceable.

TAX/FUNDING

Income Tax

Corporate income is taxed with the third category of Income Tax (CIT) on worldwide net income. In the MYPE Tax Regime companies with annual income of up to 1,700 Tax Units - UIT (for 2026, S/ 9.3 million approximately) the annual profit of up to 15 UIT (S/ 82,500 for 2025) is taxed at 10% and, above said amount, at 29.5%. In the General Regime for companies with higher income annual profits are taxed at 29.5%. In both regimes, monthly payments in advance as percentage of the monthly income are set forth and will be applied as credit against the annual tax.

All corporate income is taxed with CIT, save for legal exceptions. Donations or gifts to corporations are also taxed unless they are granted legally by the Government (subsidies). Capital premiums are not levied. On the other side, to set taxable profit, expenses deduction are allowed when necessary to generate or maintain the source of taxable income, and given they meet these other requirements: (i) are within the limits when applicable (for example, bad debt provisions, interest in thin capitalization, travel expenses, automobiles, etc.); (ii) are not prohibited, as personal expenses, taxes from third parties, no time term intangibles, among others; (iii) are invoiced in accordance with the local or source country regulations; (iv) are canceled using authorized means of payment when they must be paid with money and starting from S/ 2,000 or US$. 500; and (v) the withholding for non-resident services is complied, when applicable.

Non-residents are taxed only for their income sourced in Perú, i.e. for activities rendered within the country; direct or indirect sell or yields of stock issued by Peruvian companies; digital services, technical assistance, rights or intangibles used in Perú, etc. The Peruvian payer or user must withhold the tax starting from 4.99% up to 30% depending on the kind of income and with no right to deduct expenses. Withholding tax may be avoided or reduced if the non-resident is from a country with which Perú have a tax treaty in force. Dividends and any other type of profit distributions are taxed at a rate of 5% upon distribution (individuals residents or non residents and non resident legal entities,) or when the distribution is agreed to by the shareholders, whichever happens first. Resident legal entities are not levied over dividends received from other Peruvian corporations.

For minor business or corporations there are the Especial Regime of Income – RER or the Unified and Simplified Regime – RUS, where the income is taxed at 1% or pay a fixed amount, monthly with no expense deductions. These regimes are not applicable for certain activities (marketing, advertising, computing, showbiz, gambling, building, transportation, agency, legal, accounting, etc.).

VAT

The sale of goods, provision of services or the import of tangible or intangible goods are also taxed to business or corporation with VAT at 18% on a monthly base (output VAT). Any deductible expense for the CIT in which the supplier has charged the VAT on its invoice and complies with the tax control formalities (input VAT), gives the right to deduct it from the output VAT. In the case of payments to non-resident for services used in Peru or imports the user or buyer must pay 18% VAT directly to the Treasury and can deduct it as an input VAT.

Other taxes

The credit or debit on any type on accounts opened in the companies of the Peruvian Financial System are levied by the ITF (Financial Transaction Tax), at 0.005% of the amount credited or debited. This is withheld and paid to the Treasury by the mentioned companies. However, to the extent that the movements are business related, the ITF will be a deductible expense for CIT.

TAX/FUNDING, CONT'D

Incentive Programs: Research, Development and Innovation Expenses (R&D&I).

For the CIT and until 12/31/2028 or 12/31/2030, under certain conditions, R&DI expenses authorized by the Government that meet the general requirements indicated above, allow more than 100% of their amount to be deducted, in accordance with the following:

For companies with income less than 2,300 UIT in the previous year (approx. S/ 12.3 million in 2025) the deductions will be the following:

- 240% if the project is carried out directly or through an R&D&I resident center.
- 190% if the project is carried out through R&D&I non-resident centers.

For companies with income more than 2,300 UIT in the previous year, the deduction in each case is reduced to 190% and 160%, respectively.

The total deduction for all projects carried out by the company may not be greater than 500 UIT (approx. S/ 2.75 million by 2026) per year.

Funding programs:

- https://www.gob.pe/institucion/proinnovate/institucional
- https://startup.proinnovate.gob.pe/

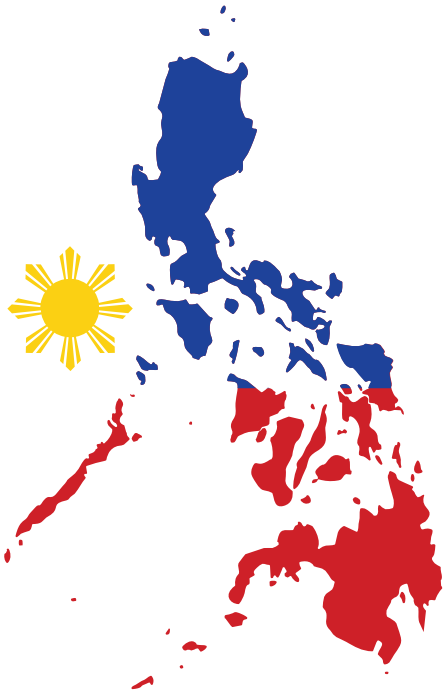
WHAT ELSE?

In a global context where increasing importance is given to environmental care, Peru is not oblivious to this trend and has established regulations to protect and preserve its natural resources. Therefore, the relevance of Peruvian environmental regulations for startups wishing to operate in the country will be analyzed.

- **General Environmental Law (Law No. 28611):** This law establishes the principles and general standards for environmental protection and sustainable development in Peruvian territory. Its impact on startups lies in the need to comply with established environmental standards, which may require the implementation of additional measures to reduce the environmental impact of their operations.
- **Environmental Impact Assessment (EIA) (Supreme Decree No. 019-2009-MINAM):** The EIA is a mandatory process for projects, works, or activities that may generate significant impacts on the environment. Startups planning to develop such projects must undergo this procedure, which could involve additional costs and delays in the implementation of their initiatives.
- **Environmental Quality Standards (Supreme Decree No. 002-2008-MINAM):** These standards establish environmental quality standards for various components of the environment, such as air, water, and soil. Startups must comply with these standards to ensure that their activities do not contaminate the environment or jeopardize human health.

Impact on Startups:

- **Additional Costs:** Compliance with environmental regulations may entail additional costs for startups, whether in conducting environmental studies, implementing cleaner technologies, or paying fines for non-compliance.
- **Compliance Requirements:** Startups must allocate resources to ensure compliance with environmental laws, which may require hiring specialized personnel or adopting more sustainable business practices.
- **Corporate Image:** Compliance with environmental regulations can improve the corporate image of startups, making them more attractive to investors, customers, and consumers who value environmental responsibility.



PHILIPPINES

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PHILIPPINES

LEGAL FOUNDATIONS

The Philippine legal system is primarily based on the Civil Code tradition, with significant influences from the Spanish Civil Law and American Common Law systems.

Civil Code System: The Philippines follows a codified system of laws, with the Civil Code of the Philippines (Republic Act No. 386) serving as a foundational legal framework. It governs civil relations, including obligations, contracts, property, and succession, among others.

Common Law Influence: While the Civil Code is predominant, the Philippines also incorporates principles of common law, particularly in procedural rules and judicial precedents. Judicial decisions, particularly those of the Supreme Court, form part of the legal system and are considered binding under the doctrine of stare decisis. (Article 8, Civil Code).

The Philippines operates under a unitary system of government, meaning there is no federal structure. The jurisdictional layers are as follows:

1. National Level: Laws are enacted by Congress and apply uniformly across the country. The Supreme Court serves as the highest judicial authority.
2. Local Government Units (LGUs): Provinces, cities, municipalities, and barangays have limited legislative and administrative powers under the Local Government Code (Republic Act No. 7160). Each level of government requires and issues specific permits and licenses.

CORPORATE STRUCTURE

When starting a business in the Philippines, a startup may consider the following corporate structures, each with its own practical advantages and legal implications:

Sole Proprietorship

- A sole proprietorship is the simplest structure. It is owned and managed by one individual who has full control of the business. However, the owner is personally liable for all debts and obligations of the business.

CORPORATE STRUCTURES, CONT'D

Partnership

- Partnerships are governed by the Civil Code of the Philippines. They can be general or limited:
  - **General Partnership:** All partners share in the management and are personally liable for debts.
  - **Limited Partnership:** Includes general partners (with unlimited liability) and limited partners (liable only up to their contribution).
- Partnerships may be considered attractive for startups due to their flexibility and shared resources.

Corporation

- A corporation is a separate legal entity, providing limited liability to its shareholders. It is governed by the Revised Corporation Code of the Philippines.
  - One Person Corporation (OPC): A single individual can form a corporation, which is ideal for solo entrepreneurs who want limited liability.
  - Stock Corporation: Suitable for startups seeking to raise capital through the issuance of shares.
  - Close Corporation: This structure merges ownership and management, making it suitable for family-run or closely-knit startups. It allows for more informal management and decision-making processes.

Cooperative

- A cooperative is a member-owned entity governed by the Cooperative Code. It is ideal for startups with a community-oriented focus.

Each structure has its own legal and operational implications, and the choice depends on the startup's goals, resources, and risk tolerance.

ENTERING THE COUNTRY

The Philippines generally welcomes foreign investments to promote industrialization, socio-economic development, and inclusive growth. Foreign investments are encouraged in enterprises that expand employment opportunities, enhance economic value, and transfer relevant technologies. However, there are relevant foreign investment rules/restrictions to consider:

Constitutional Nationality Restrictions

- Under the 1987 Philippine Constitution, certain industries are reserved for Filipinos or require majority Filipino ownership. For example:
  - Public utilities: Limited to 40% foreign ownership.
  - Mass media and advertising: Exclusively for Filipino citizens.
  - Land ownership: Foreigners are prohibited from owning land but may lease for up to 50 years, renewable for another 25 years.

ENTERING THE COUNTRY, CONT'D

Foreign Investment Act and Foreign Investment Negative List

- Startups with foreign investors must comply with the Foreign Investments Act (Republic Act No. 11647) and the Foreign Investment Negative List ("FINL").
- Certain areas of economic activity are restricted to a maximum of 40% foreign ownership. These areas are listed in the FINL, which is regularly updated to reflect industries reserved for Filipino nationals. The FINL is divided into:
  - **List A:** Activities reserved for Filipino nationals due to constitutional or statutory limitations (e.g., mass media, public utilities, and exploitation of natural resources).
  - **List B:** Activities where foreign ownership is limited for reasons of national security, defense, public health, or morals.
  - Foreign investors may own up to 100% equity in enterprises, except in areas included in the FINL.
- Recent amendments, such as those under Republic Act No. 10881 have lifted nationality requirements for adjustment companies, lending companies, financing companies, and investment houses. This aims to attract more foreign investments by removing restrictions in these sectors.
- **Administrative Oversight:** Foreign investment refers to equity participation by non-Philippine nationals in enterprises organized under Philippine laws. Investments must be registered with the Bangko Sentral ng Pilipinas ("BSP") or relevant agencies under the Implementing Rules and Regulations of Republic Act No. 11647. The Board of Investments ("BOI") and other regulatory agencies oversee foreign investment applications to ensure compliance with laws and policies.
- **Exemptions from "Doing Business":** Certain activities by foreign entities, such as mere investment as shareholders or appointing representatives, are not considered "doing business" in the Philippines.

INTELLECTUAL PROPERTY

Intellectual property in the Philippines is primarily registered with the **Intellectual Property Office of the Philippines** ("IPOPHL"), as established under Republic Act No. 8293 also known as the Intellectual Property Code of the Philippines. IPOPHL handles the registration of trademarks, patents, copyrights, utility models, and industrial designs.

Protections Afforded by Registration

- **Trademarks and Service Marks:** Registration provides exclusive rights to use the mark in connection with the goods or services specified. It also protects against unauthorized use or infringement.
  - **What is Protectable?** Words, symbols, names, images, or designs used in commerce to distinguish goods or services.
  - **Duration of protection?** 10 years from the date of registration, renewable indefinitely for successive 10-year periods, provided the registrant files a Declaration of Actual Use ("DAU") as required under Republic Act No. 8293.
- **Patents:** Grants the patent holder the exclusive right to prevent others from making, using, or selling the invention without permission.
  - **What is Protectable?** Inventions that are new, involve an inventive step, and are industrially applicable.
  - **Duration of protection?** 20 years from the filing date of the application.
- **Copyrights:** Protects original works of authorship, including literary, artistic, and musical works.
  - **What is Protectable?** Original literary, artistic, and scientific works, including computer programs and derivative works.
  - **Duration of protection?** Lifetime of the author plus 50 years after their death for most works.
- **Trade Secrets:** The Philippines does not have specific legislation dedicated solely to trade secrets. However, trade secrets are indirectly protected under the unfair competition provisions and general principles of contract law. Confidentiality agreements and non-disclosure clauses are commonly used to safeguard trade secrets. Moreover, under procedural rules, trade secrets are considered privileged and confidential.
- **Membership in the Madrid System:** The Philippines is a member of the Madrid System for the international registration of trademarks. The Madrid System allows trademark owners to file a single application to protect their marks in multiple member countries, subject to compliance with national laws.

PHILIPPINES

DATA PROTECTION/PRIVACY

The Philippines has a comprehensive data protection regime under Republic Act No. 10173, known as the Data Privacy Act of 2012 ("DPA"), and its Implementing Rules and Regulations. The DPA aims to protect personal data in both public and private sectors, ensuring compliance with international data privacy standards.

Key features of the data privacy regime include:

1. **Scope of Application:** The DPA applies to the processing of personal data, whether done manually or through automated means, if the data is stored in a filing system or intended to be part of one. It covers both personal information controllers ("PICs") and personal information processors ("PIPs").
2. **Lawful Processing:** Processing of personal information is allowed only under specific conditions, such as obtaining the data subject's consent, fulfilling contractual obligations, or complying with legal requirements.
3. **Sensitive Personal Information:** This includes data about an individual's race, health, or government-issued identifiers. Its processing is generally prohibited unless specific exceptions apply.
4. **Security Measures:** PICs and PIPs must implement organizational, physical, and technical measures to protect personal data against unauthorized access, alteration, or destruction.
5. **Rights of Data Subjects:** Individuals have rights such as access to their data, correction, and the ability to withdraw consent.

Violations of the DPA may result in administrative, civil, or criminal penalties.

As expressly provided by the DPA, it applies extraterritorially whenever the personal information of Filipino data subjects are processed.

ARTIFICIAL INTELLIGENCE

Currently, there is no specific legal regime in the Philippines dedicated solely to the regulation of artificial intelligence ("AI"). There are pending bills in congress which aim to provide a framework for the use of AI in the Philippines, but there has been no significant progress yet with these pending bills. Recent bills propose the creation of bodies to oversee and regulate AI such as a Philippine Council on Artificial Intelligence (to serve as a policy-making and advisory body of experts) and an AI Development Authority (to serve as a regulatory agency for AI developers and deployers). However, existing laws, such as the Data Privacy Act, may indirectly apply to AI systems, particularly those involving the processing of personal data. For instance, AI systems that collect, analyze, or use personal data must comply with the DPA's provisions on lawful processing, data security, and the rights of data subjects.

Significantly, the Philippines government, in collaboration with UNESCO has completed an AI Readiness Assessment Report designed to inform ethical governance and support the national AI strategy. In the 2025 Midterm Update of the Philippine Development Plan 2023-2028, the Department of Economy, Planning and Development noted that AI is a significant technological trend, with 86% of knowledge workers in the Philippines reported to be using AI tools regularly. It encouraged the adoption and integration of AI by various government agencies to aid in delivery of services, but at the same time, highlighted the need to upskill the work force to prepare it for AI adoption.

AI systems involving international data transfers must comply with the DPA's provisions on cross-border data protection. While the Philippines has yet to enact AI-specific legislation, the government and private sector are exploring frameworks to address AI's legal and ethical implications.

PHILIPPINES

EMPLOYEES/CONTRACTORS

Foreign entities engaging employees or contractors in the Philippines must comply with the Labor Code of the Philippines and its implementing rules. The distinction between employees and contractors is critical, as it determines the rights and obligations of the parties involved.

- **Employees:** Employees are entitled to statutory benefits such as minimum wage, overtime pay, holiday pay, service incentive leave, and social security contributions. Employers must also comply with security of tenure provisions, meaning employees cannot be terminated without just or authorized cause and due process, as provided under the Labor Code and its implementing rules.
- **Contractors:** Contractors must be legitimate and independent, with substantial capital or investment, and must not engage in labor-only contracting. Labor-only contracting is prohibited under Department of Labor and Employment ("DOLE") Department Order No. 174, series of 2017 and jurisprudence. If a contractor is found to be labor-only, the principal may be deemed the employer and held liable for labor law violations.
- **Work-for-Hire Regime:** The Philippines does not have a specific "work-for-hire" regime akin to other jurisdictions. However, intellectual property created by employees in the course of their employment generally belongs to the employer unless otherwise agreed. For contractors, ownership of work output depends on the terms of the service agreement.

Restrictions on Termination of Employees

Termination of employees is strictly regulated under Philippine labor laws. Employers may only terminate employees for just or authorized causes, as outlined in Articles 297, 298, and 299 of the Labor Code, and must observe due process. For instance:

- **Just Causes:** Serious misconduct, willful disobedience, gross neglect, fraud, or commission of a crime.
- **Authorized Causes:** Redundancy, retrenchment, closure of business, or disease.

Failure to comply with these requirements may result in illegal dismissal claims. Startups must carefully structure their engagements to comply with Philippine labor laws and avoid potential liabilities.

CONSUMER PROTECTION

Foreign entities engaging in business in the Philippines must comply with the country's consumer protection laws, which aim to safeguard consumer rights and promote fair trade practices. Key laws include:

1. **Republic Act No. 7394 (Consumer Act of the Philippines):** This law protects consumers from hazards to health and safety, deceptive sales practices, and ensures access to information for sound decision-making. It also provides mechanisms for redress and establishes standards for businesses.
2. **Republic Act No. 11765 (Financial Products and Services Consumer Protection Act):** This law specifically protects consumers of financial products and services by ensuring transparency, fair market conduct, and effective dispute resolution mechanisms. It also imposes penalties for violations.
3. **Republic Act No. 11967 (Internet Transactions Act of 2023):** This law governs online transactions, requiring e-marketplaces to ensure transparency, data privacy, and compliance with product standards. It also mandates the registration of online merchants and provides mechanisms for consumer redress.

Foreign entities must also ensure compliance with local licensing requirements if they are "doing business" in the Philippines. Failure to comply may result in penalties or restrictions on legal recourse.

PHILIPPINES

TERMS OF SERVICE

Online terms of service ("ToS") in the Philippines must comply with consumer protection laws and ensure transparency, fairness, and compliance with data privacy regulations. Key considerations include:

1. **Prohibited Clauses:** ToS must not include provisions that are deceptive, unfair, or unconscionable. For example, clauses that mislead consumers or waive their rights under consumer protection laws are unenforceable (Republic Act No. 7394).
2. **Mandatory Inclusions:** Under the Internet Transactions Act, e-marketplaces must ensure that ToS clearly identify the nature of transactions, promotional offers, and conditions for discounts or gifts. They must also require online merchants to provide valid identification, geographic address, and contact details (Republic Act No. 11967).
3. **Transparency and Accessibility:** ToS must be written in clear and unambiguous language to ensure consumers can make informed decisions. Misrepresentation or failure to disclose material terms may render the ToS unenforceable (Republic Act No. 10611).

By adhering to these requirements, foreign entities can ensure their ToS are enforceable and compliant with Philippine laws.

TAX/FUNDING

Investors in the Philippines should be aware of the following national tax regulations and trends:

1. **Corporate Income Tax and Incentives:**
   a. Republic Act No. 11534, or the Corporate Recovery and Tax Incentives for Enterprises Act ("CREATE"), reformed the corporate income tax system and incentives. It reduced corporate income tax rates and introduced a Strategic Investment Priority Plan ("SIPP") to guide the grant of tax incentives for specific projects or activities (Republic Act No. 11534).
   b. Republic Act No. 12066 further amended the National Internal Revenue Code, introducing zero-rating for certain export-oriented transactions and enhancing the framework for tax incentives for registered business enterprises ("RBEs") (Republic Act No. 12066).
2. **Value-Added Tax (VAT) Refunds:**
   a. VAT is imposed at 12% on the sale of goods, services, and imports, with exemptions for certain transactions. However, investors engaged in export-oriented activities may claim VAT refunds for input taxes attributable to zero-rated sales.
3. **Special Economic Zones and Freeports**
   a. Investors operating in special economic zones or freeports enjoy preferential tax treatment. For example, Republic Act No. 9728, or the Freeport Area of Bataan ("FAB") Act, provides tax incentives for businesses in the FAB, including exemption from national and local taxes and the grant of investor visas for foreign nationals investing at least USD 150,000.
   b. Enterprises in ecozones are often exempt from VAT and other taxes.

Trends: The Philippines is focusing on streamlining tax incentives to attract foreign investments, as seen in the CREATE Act and subsequent amendments. The establishment of one-stop action centers and online portals, such as the Inter-Agency Investment Promotion Coordination Committee's ("IIPCC") single-portal system, aims to simplify investment processes and provide accessible information (IRR of Republic Act No. 11647).

Contact Points: The BOI and the Fiscal Incentives Review Board ("FIRB") are key agencies for tax incentives and investment-related queries. The IIPCC's online portal provides comprehensive information on investment procedures, rights, and obligations (IRR of Republic Act No. 11647).

TAX/FUNDING, CONT'D

Below are non-tax related funding programs:

DICT Startup Grant Fund (SGF)

Lead agency: Department of Information and Communications Technology (DICT)

ICT-based startups registered as a businesses in the Philippines and have a registered startup number shall be eligible to apply for the DICT Startup Grant Fund. Startups who are either in the (1) "proof of concept (POC) to prototype" or (2) "prototype to the Minimum Viable Product (MVP)" phase are encouraged to apply. Startups are required to be registered either through the SEC or DTI (Department of Trade and Industry).
The grant fund ranges from Php 500,000.00 to Php 1,000,000.00. The grant will depend on the approved Financial Plan for the startup's product development.

Relevant Links:

- Guidelines: https://cms-cdn.e.gov.ph/DICT/pdf/DC-001-s.-2023-Startup-Grant-Fund-Guidelines.pdf
- Registration Link: https://startup.gov.ph/auth
- Frequently Asked Questions: https://startup.gov.ph/dict-startup-grant-fund-frequently-asked-questions/

Venture Financing Program (VFP)

Lead agency: Department of Science and Technology – Technology Application and Promotion Institute (DOST-TAPI)

The VFP is a program of the DOST-TAPI that accelerates the commercialization of innovative technologies or inventions by providing the necessary funding support to technology-based Micro, Small, and Medium Enterprises (MSMEs). Through VFP, technopreneurs are provided with an accessible financing mechanism to grow their business.

The VFP is available to Sole Proprietors or Corporations or Partnerships or Cooperatives at least sixty percent (60%) ownership of which belongs to Filipino Citizens. They should be a technology-based company and must be one of the following: (1) Have an active intellectual property (IP) filing; (2) An adopter of DOST-generated/funded technology; (3) A previous or current DOST beneficiary; or (4) A technology licensee. Eligible proponents applying for the Program should currently be in the commercialization phase, not in the discovery or pre-commercialization phase.

Relevant Links:

- Guidelines: http://www.tapi.dost.gov.ph/resources/downloads/summary/64-tapi-ao-2023/3475-ao-2023-002
- Frequently Asked Questions and Application Process: http://www.tapi.dost.gov.ph/call-for-proposals/vfp

WHAT ELSE?

Foreign entities should consider the following before entering the Philippine market:

Ease of Doing Business: The government has implemented measures to simplify business registration and compliance, including the establishment of one-stop action centers and online systems (Republic Act No. 12066). Relevant measures include:

- **One-Stop Action Centers:** Investment Promotion are mandated to establish one-stop shops to assist businesses in setting up and complying with regulatory requirements. These centers facilitate coordination with local government units (LGUs) and national agencies, expediting the issuance of permits and licenses (Republic Act No. 12066, Sec. 310).
- **Online Systems:** The law promotes the use of online platforms for business registration, tax filing, and compliance, reducing bureaucratic delays and enhancing transparency.

Environmental Compliance: Investments in strategic industries must comply with environmental standards, as mandated by the IRR of Republic Act No. 11647. Investments in industries critical to national security, such as military-related industries and cyber infrastructure, must adhere to strict environmental standards. Enterprises must comply with regulations set by the Department of Environment and Natural Resources ("DENR") and other agencies. This includes securing necessary clearances after registration with the Securities and Exchange Commission ("SEC").

Tax Compliance and Reporting: Foreign investors must ensure compliance with tax filing and reporting requirements, including electronic invoicing and sales reporting for specific taxpayers (Republic Act No. 12066).

Restrictions for FinTech Startups:

The Philippine approach to fintech has evolved to create a conducive environment for innovation and growth while mitigating the risks of use. Consistent with this balanced approach, the BSP, the SEC, and other Philippine regulatory bodies have not imposed any blanket bans or prohibitions with respect to particular fintech activities.

However, in 2021, the BSP issued a moratorium on new E-Money Issuers ("EMIs") applicants. It suspended the issuance of EMI licenses, initially for two years or until 2023, and extended the same until 15 December 2024. The moratorium was lifted effective 16 December 2024, and the BSP has since reopened the regular application process for new EMI Non-Bank Financial Institutions ("EMI-NBFIs"). Notably, the BSP has adopted a more stringent licensing approach. Specifically, EMI-NBFI applicants must demonstrate transparency of ownership and control structures, suitability and propriety of shareholders, directors, and senior management, adequacy of capital, and the presence of a robust risk-management system. The BSP has indicated that only applications involving new business models, unserved or underserved markets, targeted niches, or novel technologies will be accepted for processing.

Effective 1 January 2025, the BSP lifted its moratorium on the issuance of new digital banking licenses, subject to a numerical cap on the total number of digital banks allowed to operate in the Philippines. Specifically, the BSP will allow a maximum of 10 digital banks to operate in the Philippines. Currently, there are six licensed digital banks operating in the country.

WHAT ELSE?, CONT'D

Restrictions for FinTech Startups, CONT'D:

In response to numerous complaints relating to violations in the online lending platforms, the SEC issued a moratorium on the registration of new online lending platforms ("OLP"). While the SEC recognizes the contribution of OLPs to small and medium enterprises, the moratorium will allow the SEC to strictly monitor existing OLPs' compliance with regulations to ensure that the industry will thrive and develop, and at the same time protect consumers. While the moratorium is still in effect, in January 2026, the SEC had stated that it is studying a possible lifting of the moratorium on the registration of new online lending platforms given the length of the moratorium.

In 2022, the BSP also issued a moratorium on new VASP licenses for a period of three years until 1 September 2025 and decided to grant new VASP licenses only to existing BSP-supervised financial institutions. The moratorium has been extended and remains in place until further notice, subject to periodic regulatory review by the BSP. During this period, the BSP continues to supervise existing VASPs and refine regulatory standards addressing financial stability, consumer protection, and anti-money laundering concerns. Based on current market developments, the BSP recognizes that while VASPs offer opportunities to promote greater access to financial services at reduced costs, they also pose varied risks that may undermine financial stability. In 2025, the Securities and Exchange Commission also issued its own rules and guidelines to regulate cryptoassets which are treated similarly as securities.



POLAND

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POLAND

LEGAL FOUNDATIONS

Poland is a member of the EU and Polish legislation is harmonised with EU law.

Poland adheres to the civil-law system, which means it relies on written statutes and other legal codes governing public, private and criminal law.

Private law governs the relationships between individuals, including contracts, warranties, liabilities and more. It is primarily codified in the Civil Code (KC). The primary set of rules overseeing the formation, organisation, operation, termination, merger, division and transformation of commercial companies is the Commercial Companies Code (KSH). Additionally, there are numerous other laws that pertain to specific fields, such as employment (Labour Code), e-commerce and consumer protection.

While the Polish legal system is a civil-law system, it is worth noting that case law, particularly that of the Polish Supreme Court and the Polish Supreme Administrative Court, exerts a substantial influence on the application of the law. The final rulings of these courts frequently serve as persuasive precedents and must generally be considered by lower courts. Accordingly, case law also contributes to the development of the legal framework.

Poland has a unitary legal system, and the same rules apply uniformly throughout the country.

However, access to certain incentives, such as EU grants or other forms of public assistance, may vary depending on the region in which the business operates or employs individuals.

Poland benefits from a strong talent pool and relatively lower labour costs, which attract entrepreneurs to the market. The high standard of education ensures access to qualified professionals, particularly in the IT sector, contributing to the development of a dynamic and growing start-up ecosystem.

POLAND

CORPORATE STRUCTURES

With a large domestic market and an abundance of IT talent, Poland is rapidly emerging as a European hub for start-ups.

The most popular business structures that start-ups can consider are a limited liability company (sp. z o.o.) and a simplified joint-stock company (PSA). The latter is a new type of company introduced in Poland in 2021, specifically designed for start-ups.

Both legal forms limit the liability of shareholders, facilitate easy entry of investors and enable effective management of the entity's activities.

Polish start-ups often initially operate as partnerships (general partnership or limited partnership); however, when seeking to attract external investors, they typically convert to a limited liability company (sp. z o.o.) or a simplified joint-stock company (PSA).

The process of registering a company in Poland is fast and cost-effective.

A company may be established through a notarial deed, in which case the registration process typically takes up to three weeks.

Alternatively, a company with standard articles of association (AoA) can be established more quickly and cost-effectively through a dedicated online system for registering and updating company data (the so-called S24 system).

The incorporation of a company with standard AoA, as well as the creation of necessary documents take place in the online S24 system provided by the government. The system enables straightforward management of the entity and most typical changes can be made online using templates available within the system. However, it is necessary to have either qualified electronic signatures or access to a local bank account in order to sign the documents.

In theory, the establishment of a company online should take place within one day (hence the name of the system S24), but in practice, it may take 2/3 days to a week. It is also possible to purchase a ready-made shelf company from a law firm or shelf company provider.

The minimum share capital for a limited liability company is PLN 5,000, while for a simplified joint-stock company, it is PLN 1. The bodies of an LLC include the shareholders' meeting, a management board and optionally a supervisory board (the supervisory board is mandatory in companies where the share capital exceeds PLN 500,000 and there are more than twenty-five shareholders).

The simplified joint-stock company (PSA) is a type of company introduced into Polish law in 2021, designed with start-ups in mind and aimed at simplifying processes such as the establishment of an Employee Stock Ownership Plan (ESOP). Depending on the needs of the start-up and the preferences of the investors, two governance structures are available: a management board or a board of directors. The latter introduces a one-tier governance model, new to the Polish legal system, both management and supervisory functions within a single body.

A joint stock company (SA) is the preferred legal form for larger, more established organisations or those seeking to be listed on a stock exchange, requiring significantly more capital (the minimum share capital is PLN 100,000). This legal form accommodates a large number of passive shareholders who do not actively participate in the company's operations.

POLAND

ENTERING THE COUNTRY

Poland is a member of the EU and open to foreign investments.

In general, there are no significant investment restrictions in Poland. Most of these restrictions are unlikely to affect start-ups or their investors, as the minimum threshold for being affected is a turnover in Poland exceeding EUR 10 million in any of the two preceding financial years.

Protected Strategic Companies

The new investment control rules mandate that foreign investors from outside the EU, EEA or OECD must notify the Polish authorities of investments that would result in the acquisition of specific decision-making powers in protected Polish companies. These companies include, among others: i) publicly listed companies, ii) companies with assets listed in the unified register of facilities, installations, equipment and services classified as critical infrastructure, iii) companies engaging in business activities within industries specified in the Act on the control of certain investments (the "Act"), traditionally regarded as strategic, (including energy, gas, telecommunications, fuel and chemical industries, as well as newly added sectors such as pharmaceutical production or meat, milk, fruit and vegetable processing) and iv) companies active in IT services dedicated to industries specified in the Act, traditionally regarded as strategic, which at the same time generate revenues from sales and services in Poland exceeding the equivalent of EUR 10 million in either of the two financial years preceding the notification.

Merger Control

Polish and EU merger control regulations will apply to investments in Poland. However, transactions in which the total turnover of the target in Poland does not exceed EUR 10 million are generally not subject to control. Accordingly, in the case of start-ups, it is unlikely that the applicable thresholds will be met.

Real Estate

Additionally, the acquisition of real estate or a company owning real estate by nationals from outside the EU or EEA requires the approval of the Ministry of Interior and Administration. However, this restriction does not apply to investments in listed companies.

POLAND

INTELLECTUAL PROPERTY

The fundamental legal acts governing intellectual property rights in Poland include the Copyright and Related Rights Act and the Industrial Property Law. Protection of trade secrets is primarily regulated by the Act on Combating Unfair Competition.

Trademarks

What is protectable? Trademarks are symbols utilised by businesses to distinguish their products or services. A trademark can encompass any symbol that allows the products of one company to be distinguished from those of another and it can be represented in the trademark registry in a manner that enables the unambiguous and precise identification of the protected subject matter.

Where to apply? Trademarks can be registered with either the Polish Patent Office, the European Union Intellectual Property Office (EUIPO) or the World Intellectual Property Organisation (WIPO) under the Madrid System, depending on the desired territories for trademark protection. An application with the Polish Patent Office can be submitted also through a proxy. The Patent Office evaluates whether there are any circumstances preventing the granting of the protective right and subsequently publishes the trademark application in the Patent Office Bulletin. Following this publication, other parties have a three-month window to file an opposition. If no opposition is raised within three months of the announcement in the Patent Office Bulletin, the Patent Office issues a decision to grant trademark protection. Once the decision to grant trademark protection becomes final, the Patent Office will register the trademark in the public trademark register.

Duration of protection? The trademark protection rights last for 10 years from the date of filing the trademark application with the Polish Patent Office. At the request of the holder, the trademark protection may be extended. To renew protection for another 10 years, the required protection fee must be paid to the Patent Office account by the statutory deadline.

Costs? The fee for one class of goods varies depending on the form of application, either PLN 450 or PLN 400. For each additional class of goods, the fee is PLN 120. For a statement of priority use, there is a fee of PLN 100 for each priority.

Patent

What is protectable? A patent is granted for an invention, defined as a technical solution to any problem. Patents are always granted to the creator of the invention, who must be a human being whether the invention is the result of a deliberate action or chance. To qualify for a patent, an invention must meet certain criteria:

- it must be new, meaning it is not part of the state of the art, which refers to the current knowledge in the relevant field,
- it must involve an inventive step, meaning it is not obvious to someone skilled in the relevant field of technology,
- it must be suitable for industrial application.

Where to apply? Patent protection is granted on per-country basis, meaning the applicant must register the patent in each country where protection is sought. Patent applications can be filed with either the Polish Patent Office, EPO or WIPO. The registration procedures before these offices vary slightly, particularly in terms of costs.

Duration of protection? The term of protection is a maximum of 20 years from the date of the invention notification.

Costs? The application fee is PLN 550 or PLN 500, depending on the form of application. There is a fee of PLN 100 for each priority statement.

INTELLECTUAL PROPERTY, CONT'D

Patent, CONT'D

Employee invention and inventor bonus? According to the Polish Industrial Property Law, if an invention is created as a result of the creator's performance of duties under the employment (labour) relationship, the right to obtain a patent for the invention shall belong to the employer, unless the parties have agreed otherwise. This means that if an employee makes an invention in the performance of their employment duties, the right to a patent for that invention will belong to the employer. Such a situation arises when the employee's activities that may lead to the invention are performed as part of their employment duties and are identical to the work performed for the employer. For the employer to acquire rights to the invention, the research work carried out by the employee resulting in the invention should take place at the expense of the employer. The parties to the employment relationship may, by contract, establish separate terms regarding this matter. An employee who has created an invention while carrying out their employment duties is entitled to receive remuneration from the employer.

If the parties have not agreed on the amount of remuneration, it shall be determined in fair proportion to the entrepreneur's benefit from the invention, taking into account the circumstances under which the invention was made, and in particular the extent of assistance given to the creator in making the invention and the extent of the creator's labour obligations in connection with the invention.

Utility Model

What is protectable? A utility model is a new and useful technical solution related to the shape, construction or combination of structurally unconnected elements of an object with a permanent form. To be eligible for protection, a utility model must satisfy the following criteria:

- novelty: the solution must not have been previously known,
- technical nature: at least one new and useful element must be identifiable,
- utility: the solution must be functional and serve a practical purpose,
- permanent form: the solution must concern an object of permanent form, distinguishable from its surroundings.

Utility models share a fundamental similarity with inventions – both involve new technical solutions. However, unlike inventions, utility models are not required to involve an inventive step, meaning they need not be non-obvious to a person skilled in the relevant field. Accordingly, a solution that is both non-obvious and constitutes an object of permanent form may qualify for protection as both an invention and a utility model.

Where to apply? Utility model protection is granted on a per-country basis. Applications for utility models can be filed with the Polish Patent Office.m

Duration of protection? Utility models are protected for 10 years from the filing date of the utility model application.

Costs? The application fee is PLN 550 or PLN 500, depending on the form of application. There is a fee of PLN 100 for each priority statement.

INTELLECTUAL PROPERTY, CONT'D

Copyright, CONT'D

Employee copyright: The employer, whose employee has created the work in the course of his or her employment, acquires the economic IP rights. The personal rights of the creator, on the other hand, remain with the employee forever, although the contract may restrict their exercise.
The rule that the employer automatically acquires work results and IP rights only applies to employees with an employment (labour) contract. The creation of such works must be part of the author's employment duties in the employment contract for the economic rights to pass to the employer. An employment contract must also be in writing.

In the case of work for hire and contractors (B2B relationships) or other civil law contracts (other than labour relationships), the agreement must include a clause concerning the transfer of copyright to the company. Furthermore, the agreement must be in writing, either with a wet signature or qualified electronic signature (QES). Without a written agreement, the transfer of IP will not be valid and only a limited license will be granted. Moreover, the IP assignment clause must specify the so-called fields of exploitation, describing the permitted use.

Given the widespread use of freelancers in the Polish IT market, it is crucial to thoroughly review contracts with individuals involved in creating computer systems to ensure that these contracts contain properly worded and executed transfer of copyright clauses.

Trade Secrets

What is protected? Trade secrets themselves are not recognised as an intellectual property asset. However, the Act on Combating Unfair Competition and other laws protect business information of commercial value that is kept secret. A trade secret is defined as technical, technological, organisational information of an enterprise or other information of economic value which, either in its entirety or in the particular compilation and collection of its elements, is not generally known to persons who normally deal with this type of information or is not readily accessible to such persons, provided that the person entitled to use or dispose of the information has taken diligent measures to keep it confidential.

Duration of protection? Trade secret protection applies for as long as appropriate measures are in place and the information retains its commercial value.

NDA It is advisable to sign additional confidentiality agreements as a good practice.

DATA PROTECTION/PRIVACY

Since 25th of May 2018, the General Data Protection Regulation (GDPR) has been applicable. In Poland, the GDPR is supplemented by the Act on Personal Data Protection and sector-specific regulations. For instance, electronic communication regulations are provided by the Act on the Provision of Electronic Services and Electronic Communications Law (new law passed in 2024, which replaced the Telecommunications Law). In the area of employment, regulations are governed by the Labour Code (KP).

The specific provisions in Polish law in the discussed area are as follows:

- The Personal Data Protection Act regulates the functioning of the Polish supervisory authority, including its conduct of inspections. It also includes provisions for the notification of the appointment of the Data Protection Officer (DPO) to the supervisory authority, as well as civil and criminal liability for violations of data protection laws.
- Some provisions of the GDPR do not apply to the processing of personal data for journalistic purposes by media owners.
- Phone calls and electronic messages for advertising purposes require the data subject's prior consent (opt-in model).

Prior consent is required for setting cookies which are not necessary for the provision of the service, regardless of whether personal data is processed. Therefore, opt-in consent is necessary for all marketing cookies. The rules for processing employees' personal data, including employee monitoring, are described in the Labour Code. The Polish Data Protection Authority (PUODO, Prezes Urzędu Ochrony Danych Osobowych) is the competent supervisory authority for personal data protection. Several noteworthy guidelines have been issued by the supervisory authority (available only in Polish). These include guidelines on CCTV, guidelines on data protection in the workplace and guidelines on controllers' obligations related to data breaches (new guidelines issued in February 2025, updating the 2019 guidelines). The latter guidelines provide important information regarding situations where there is a high risk of a violation of an individual's rights and freedoms, as well as specifying what information should be provided to the data subject in connection with a data breach.

Unfortunately, there are not yet official guidelines on the processing of personal data in connection with the use of cookies or similar technologies, or the collection of consents for the use of cookies. The competence regarding the recognition of practices concerning the collection of cookie consents lies outside the Polish DPA. Specifically, the President of the Office of Electronic Communications is competent in this regard but has not been publicly active in making recommendations regarding the application of the relevant provisions of the Electronic Communications Law.

Moreover, a violation of rules on direct marketing may result in action being taken by other authorities, such as the President of the Office of Competition and Consumer Protection or the President of the Office of Electronic Communications.

The Polish Data Protection Authority follows a rather data subject-friendly approach.

POLAND

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Poland yet. Nevertheless, general legal requirements, particularly those arising under data protection and copyright law, apply to AI-related activities. The EU AI Act will be directly applicable in Poland. As of 2 February 2025, the first provisions of the AI Act have entered into force, including those concerning prohibited AI practices and the obligation to ensure an adequate level of competence among personnel (referred to as AI literacy), applicable to both providers of artificial intelligence systems and entities deploying such systems.

The principles of data protection law, especially as outlined in Art. 22 of the GDPR concerning automated individual decision-making, must be adhered to in relation to the development, testing and operation of AI. Thus, the use of AI must result in any legal or similarly serious effects on the data subject, without any human intervention. An automated decision-making process is assumed, for example, if a company utilises the results of an AI-application without any further quality-check and assessment.

National copyright restrictions are particularly relevant for generative AI. This applies to both the input data, especially web scraping, and the output of the specific AI application. The output of AI may infringe the rights of the author of the original if it is identical to or resembles an original source.

EMPLOYEES/CONTRACTORS

Labour relation: The terms and conditions of an employment (labour) agreement in Poland are regulated by the Labour Code. Statutory rules provide employees with numerous rights and give to the employee sense of stability. This stability stems from statutory notice periods, which are 2 weeks if the employee has been employed for less than 6 months, 1 month if employed for a minimum of 6 months, and 3 months if employed for at least 3 years). Furthermore, employees have the right to annual holiday, typically totalling 26 days each calendar year, and), the opportunity to take maternity and parental leave, along with other privileges outlined by law. Moreover, new employees are required to undergo an initial medical examination and receive health and safety training. Employers are obliged to register employees as insured in the social security institution. The employment agreement also grants employees the right to take sick leave, as determined by a doctor, and employees are entitled to renumeration for days off due to illness.

An employment agreement may be concluded for the following terms:

- trial period,
- fixed term,
- indefinite period.

The maximum length of all fixed-term employment agreements concluded with an employee is 33 months and no more than 3 fixed-term agreements may be entered into, after which the next fixed-term agreement is considered to be an indefinite-term employment agreement.

Employees within 4 years of reaching retirement age are protected against termination of the employment agreement.

B2B / freelancer: Self-employment (B2B/contractor-based model) is quite popular in Poland. It is often favoured due to its potential tax and social contributions efficiency, prompting parties to opt for self-employment over traditional employment (labour) contracts. However, it is important to note that the adoption of this model is not always justified and may entail certain risks.

EMPLOYEES/CONTRACTORS, CONT'D

Who qualifies for the self-employment model?
Only certain positions and types of work are eligible for outsourcing and may qualify for the self-employment model. In the case of software developers, it is common to engage them on a self-employment basis. These consultants typically register their own business activities as sole traders or freelancers and invoice the company accordingly. Senior software developers often prefer this model due to potential tax savings. Furthermore, it is fair to say that engagement under B2B contracts are very common in the IT sector in Poland. However, there are instances where this arrangement may be questioned by authorities.

It should also be noted that legislative work is currently underway in Poland aimed at restricting the use of the B2B model. The proposed changes may grant authorities enhanced powers to scrutinise and reclassify B2B arrangements as employment (labour) relationships. If enacted, these reforms are expected to significantly increase the risk of reclassification of B2B contracts as employment contracts, which could result in additional obligations for the engaging entity, including the payment of outstanding social security contributions, taxes and other employment-related liabilities. Accordingly, foreign entities engaging contractors in Poland on a B2B basis should closely monitor these legislative developments.

Self-employment is particularly convenient for software developers who work for multiple entities or cooperate with companies on a non-regular basis. However, in practice, they often work for just one company, which, in light of the planned legislative changes referred abovemay be increasingly subject to scrutiny byrelevant authorities

It is important to note that employees should not be compelled to work as self-employed individuals. Each case must be evaluated individually, and employers should not automatically replace labour contracts with other types of civil law contracts.

Advantages of self-employment
The use of contractors is popular among IT companies in Poland because this model is often more cost- and tax-efficient for better-paid positions, allowing parties to pay less in social security contributions (which are a fixed amount). However, a notable disadvantage is that the individual's pension savings will be correspondingly lower.

All self-employed individuals may benefit from a flat 19% income tax rate. However, many self-employed IT consultants may choose and be taxed at a flat rate on revenues, typically at 12% or even 8.5% in some cases (turnover-based), instead of the progressive tax rates of 12% and 32% applicable in the case of labour contracts. (for further details, see section 10 (Tax/Funding).

Self-employed individuals are solely responsible for paying all contributions and taxes arising from the contracts they conclude. The contractor's remuneration may be subject to VAT; however, this typically has a neutral effect on the engaging company, as input VAT is generally deductible.

CONSUMER PROTECTION

Poland, like every country in the European Union, has a comprehensive system of legal acts designed to protect the health and economic interests of consumers. Compliance with these regulations is obligatory for every entrepreneur, and there are specific legal sanctions for violations. Polish consumer protection laws are regulated in various statutes, notably the Competition and Consumer Protection Act and the Civil Code. Furthermore, specific provisions are outlined in the Act on Counteracting Unfair Market Practices, the Act Against Unfair Competition and in the Act on the Provision of Electronic Services.

A consumer is defined as a non-business individual. However, certain forms of consumer protection are also extended to sole proprietors in Poland. This applies solely to contracts related to business activities that are not of a professional nature for a sole proprietor.

When engaging with consumers, it is crucial to recognise that, by law, the consumer is considered the weaker party in the contract. Among the most significant rights of consumers is the right to withdraw from the contract and file a claim for defective goods based on warranty or guarantee. Contracts with consumers must not contain prohibited (abusive) clauses. These are provisions included in a contract by the seller without individual agreement with the consumer, which further infringe upon the consumer's interests or describe their rights and obligations in a manner contrary to good morals. Such contracts are not binding on the consumer by law. An example of an unlawful clause could be one that makes terminating the contract conditional on the payment of a penalty or one that excludes the company's liability for non-performance or improper performance. However, provisions defining the main benefits of the parties, such as the price or remuneration, if unambiguously worded, cannot be considered prohibited clauses.

When dealing with consumers, it is essential to ensure proper communication of prices for goods and services. At the point of sale or service provision, the price and unit price should be clearly displayed. Information about reduced prices should be prominently posted in a location accessible to the public and easily visible, either directly next to or near the goods, or within the service description.

If goods are sold online, such as through online shops, consumers have the right to return the goods within 14 days and request a refund of the price paid without providing a reason. This right can only be restricted in specific circumstances. If the consumer is not informed of their right of withdrawal, the right remains valid until 12 months after the expiration of the initial 14-day return period. However, if the consumer is informed of their right of withdrawal within these 12 months, the withdrawal deadline expires 14 days after they are informed. In case of consumer disputes, special institutions, including inspectorates of the Commercial Inspection, can assist in resolving them.

Moreover, it is important to communicate with Polish consumers in Polish (Act on the Polish language) any notices and information directed to Polish consumers shall be in Polish.

POLAND

TERMS OF SERVICE

The mandatory elements of the terms of service for the provision of electronic services are outlined in the Act on the Provision of Electronic Services. According to this law, the terms of service must include, at a minimum:

- the types and scope of services provided electronically,
- the technical requirements necessary for cooperation with the information and communication system used by the service provider,
- prohibition on the provision of unlawful content by the recipient of the service,
- conditions for the conclusion and termination of contracts for the provision of services electronically,
- complaint procedure.

The service provider is required to provide the terms of service to the recipient of the service free of charge before the conclusion of the contract for the provision of electronic services. Additionally, upon request, the terms must be provided in a manner that allows the recipient to access, reproduce and record the content of the regulations using the information and communication system they utilize.

Furthermore, information important for consumers must be provided in Polish.

TAX/FUNDING

Tax Regulations

Corporate Income Tax (CIT)

Standard CIT Rate: The general corporate income tax rate in Poland is **19%**, applied to taxable profits. Polish resident companies are taxed on worldwide income (with double tax treaties potentially exempting foreign-source income), while non-residents pay tax only on Polish-source income.
https://www.podatki.gov.pl/en/corporate-income-tax/.

Reduced CIT Rate: A **9% CIT** rate is available for small businesses on their active trading income (not on capital gains). This lower rate applies if the company's prior-year revenue did not exceed €2 million or if it's a new start-up in its first tax year (provided it wasn't formed through a merger or restructuring).

Capital gains (e.g. from selling shares) are excluded from the 9% rate and taxed at the standard 19%.

Special CIT Regimes: Poland has introduced innovative tax schemes:

- **"Estonian CIT" (lump-sum tax):** Companies may elect to defer CIT until profits are distributed (e.g., as dividends), rather than paying tax on an annual basis. This regime is subject to certain conditions, such as restrictions on hidden profit distributions.
- **Minimum Income Tax:** a 10% minimum tax applies to corporations with tax losses or very low profit margins (profit below 2% of revenue). Start-ups in their first 3 years and certain other companies are exempt from minimum income tax. The minimum tax can be credited against future CIT liabilities.
- **Family Foundations:** Family foundations benefit from a CIT exemption on income derived from statutorily permitted activities. A 15% CIT rate applies only upon the distribution of benefits to beneficiaries, consistent with the Estonian CIT concept of taxation at the point of distribution.

TAX/FUNDING, CONT'D

Tax Regulations, CONT'D

Withholding Tax on Dividends

WHT Rate: Dividends paid by a Polish company to shareholders (domestic or foreign) are subject to a 19% withholding tax (WHT) by default. This WHT also applies to other profit distributions, such as liquidation proceeds or automatic redemption of shares (voluntary redemption of shares is treated as a sale of shares).

Tax Treaty Relief: Many of Poland's double taxation treaties (DTTs) reduce the dividend WHT – common treaty rates are 5%, 10%, or 15%, depending on ownership percentage and other criteria.

EU Parent-Subsidiary Exemption: Dividends paid to a parent company in the EU/EEA (or Switzerland) can be exempt from Polish WHT if certain conditions are met. Poland implemented the EU Parent-Subsidiary Directive which effectively eliminates WHT on intra-EU group dividends although Poland use a so called pay and refund mechanism for WHT, which may have an impact on a cashflow.

Withholding Tax on Royalties

WHT Rate: Royalties paid to foreign entities (for the use of copyrights, patents, trademarks, know-how, etc.) are subject to a 20% WHT under Polish law. This rate also applies to payments for certain intangible services (such as consulting or management fees) made to non-residents.

Tax Treaty & EU Relief: Many tax treaties reduce royalty withholding – common rates are 5%, 10% or 15%. Under the EU Interest-Royalties Directive, qualifying royalty payments to associated EU companies can be WHT-exempt if the recipient holds ≥25% of the payer (2-year holding, beneficial ownership, and documentation required) although Poland use a so called pay and refund mechanism for WHT, which may have an impact on a cashflow.

Capital Gains Tax

For companies, gains from selling shares or other investments are taxed at 19% as a separate basket of income. For individuals, Polish-source capital gains (e.g. share sales) are typically taxed at 19% flat PIT.

Non-Resident Investors: By default, foreign companies or individuals selling shares in Polish companies pay 19% tax on the gain. However, double tax treaties often allocate the taxing right to the seller's residence country unless the Polish company's assets consist principally of Polish real estate. Poland follows the OECD Model: capital gains by a non-resident on shares are usually exempt in Poland unless >50% of the target company's assets are Polish real estate (the "real-estate rich company" clause).

Where the transaction is not subject to VAT, a 1% civil law transaction tax (PCC) (a type of stamp duty) applies to share sales and is generally borne by the buyer.

Exit Tax: Poland has an "exit tax" for individuals and companies who change tax residency, taxing unrealized gains on certain assets at 19%. In practise this mainly affects Polish residents moving to other tax jurisdictions.

TAX/FUNDING, CONT'D

Tax Regulations, CONT'D

Value Added Tax (VAT)

Poland's VAT is an EU-harmonized value-added tax on goods and services. Businesses charge VAT on sales and may deduct input VAT on purchases used for their taxable activities. The regime provides for credits or refunds where input VAT exceeds output VAT. Key rates and features include:

- **Standard Rate: 23% VAT** is the basic rate on most goods and services. https://www.podatki.gov.pl/en/value-added-tax/
- **Reduced Rates: 8% VAT** applies to selected goods/services (e.g. some foodstuffs, passenger transport, construction under social housing, cultural and sporting services). A 5% super-reduced rate covers essentials like certain basic food (bread, dairy), baby supplies, and books/ebooks. A 0% rate applies to exports and intra-EU supplies, international transport, and certain goods (0% means no VAT is charged, and input VAT is still deductible).

R&D Incentives and Tax Reliefs for Start-ups

Poland encourages innovation through tax reliefs and grants for research and development:

- **R&D Tax Allowance (Ulga B+R):** Companies conducting qualifying R&D activities can claim an additional tax deduction on eligible R&D costs. From 2022, the deduction for R&D staff costs increased to 200% (i.e. double deduction of wages of employees involved in R&D).
- **Eligible R&D Costs:** Include employee salaries and social contributions for R&D staff, costs of materials and supplies used in R&D, research services and expert opinions from scientific units, depreciation of R&D equipment, acquisition of patents or intellectual property protection, and certain overheads. Notably, expenditure on prototypes and trial production can also be deducted (Poland introduced a separate "Prototype relief" To claim, companies must keep documentation of R&D activities and costs. The relief is taken in the annual CIT return (with unused deductions carryforward up to 6 years).
- **IP Box (Innovation Box):** Poland offers a 5% preferential CIT rate on income derived from qualifying intellectual property (IP) rights. This "IP Box" applies to income from patents, copyrighted software, utility models, etc., developed or improved by the company's R&D activities. To use IP Box, a taxpayer must segregate qualifying IP income and track associated R&D costs to compute a nexus fraction (ensuring the relief is proportional to the company's own R&D effort). The 5% rate can significantly reduce tax on revenues from licensing IP or selling products using patented innovations. Companies can benefit from both R&D relief and IP Box simultaneously.

TAX/FUNDING, CONT'D

Favorable Tax Options for IT Professionals and Software Developers

Poland offers highly attractive tax options for IT professionals and software developers. A widely used market model is the B2B (business-to-business) contract, where IT specialists operate as sole proprietors rather than employees (please see section Employees/Contractors).

IT specialists running their own businesses in Poland can choose from different taxation methods. The most beneficial options include:

1. **Lump-sum tax on registered revenue** (pl. Ryczałt od Przychodów Ewidencjonowanych)
   a. Many IT professionals opt for flat-rate taxation based on their revenue rather than their profit. This model eliminates the need to deduct costs, simplifying accounting and tax reporting. The applicable flat tax rate for software development and IT services is 12% of revenue.
   b. If the activity is classified as consulting or advisory in nature, the rate increases to 15%.
   c. Certain IT-related services, such as technical support, maintenance or other auxiliary IT services, may qualify for a lower flat rate of 8.5%.
   d. However, the exact classification and applicable rate depend on the scope of activities performed.
2. **Flat linear Tax 19%** (pl. Podatek liniowy 19%) Sole traders can also opt for a flat 19% income tax, which applies to net income (after deducting business expenses).
3. **General Progressive Taxation** (12% and 32%) The standard personal income tax system applies progressive rates: 12% up to PLN 120,000 of annual income and 32% for income exceeding this threshold.

Social Security Contributions: Under the B2B model, IT professionals are solely responsible for their own ZUS (social security) contributions. Entrepreneurs may benefit from reduced ZUS contribution rates during the initial years of business operation.

Overall, Poland offers a favourable tax environment for IT specialists, particularly those working under the B2B model. The flat-rate tax (12% or even 8.5% for certain services) is a particularly attractive option for software developers who prefer a simple tax structure with lower effective tax burdens.

Grants and Subsidies, Funding

The Polish government and EU operational programs offer numerous grants, subsidies and competitive funding programmes for start-ups and innovative enterprises:

EU Structural Funds – FENG/Smart Path: In the 2021–2027 EU budget, Poland launched the **European Funds for a Modern Economy (FENG) program**. Start-ups and SMEs can apply for grants covering a significant portion of costs (generally 50–80% depending on activity and company size). Within **Smart Path programme**, the minimum value of the project is PLN 3 million (some EUR 750k) and maximum amount of the grant is PLN 50 million (some EUR 12,5 million). Programs for financing of innovation (R&D and implementation of R&D) are organized also on the level of Polish regions (województwo), typically with slightly lower minimum values of the project and maximum amount the grant. https://www.nowoczesnagospodarka.gov.pl/

Start-up Booster Poland programme: a government-backed accelerator program (operated by PARP) offering grants of ca. EUR 100k. Start-up Booster Poland programme includes Poland Prize path aimed at attracting foreign start-ups to move to Poland. The grant may be used for soft-landing support (workspace, legal, visa help) and for commercialization of start-ups product in Poland. Although specific editions have start and end dates, similar programs continue to run, focusing on various sectors (fintech, Industry 4.0, space tech, etc.). https://ttkraft.pl/en/services/non-equity-funding-startups/

TAX/FUNDING, CONT'D

Grants and Subsidies, Funding, CONT'D

Platformy startowe programme (Start-up Platforms programme): is a government-backed 3 stage incubation programme offering grants to start-ups at the very initial phase of development (the start-up enters this programme at pre-MVP stage). https://grupapfr.pl/artykul/parp-oglasza-nabor-wnioskow-w-programie-platformy-startowe-dla-nowych-pomyslow#

Venture Capital and Angel Investors: Poland's venture capital ecosystem has grown rapidly, providing equity financing and mentorship to start-ups. There are over 100 active VC funds operating in Poland, covering stages from pre-seed to growth. https://grupapfr.pl/artykul/parp-oglasza-nabor-wnioskow-w-programie-platformy-startowe-dla-nowych-pomyslow#

Corporate Venture and CVC: Several corporates have venture arms or run accelerators. They invest in start-ups that synergize with their industries, offering not just capital but also pilot opportunities.

Business Angels: Poland's angel investment ecosystem is growing, with around 680 active investors. Key networks include and COBIN Angels, the largest professional angel network https://pl.cobinangels.com/, PolBAN, the first angel club in Poland, Lewiatan Business Angels, linked to the Lewiatan Confederation,. Amber Business Angels Network. Many angels invest informally or via platforms like AngelList and Vestbee. The PFR Biznest FIZ co-investment fund further stimulates activity by matching private capital with public funds.;

It is common for Polish start-ups to raise an initial pre-seed round (EUR 50K–250K) from angels or seed funds, a seed/Series A (EUR 250K–2.5M) from VCs, and larger Series B+ often involving foreign investors.

Crowdfunding and Alternative Financing: Polish law permits alternative financing methods, including crowdfunding, peer-to-peer lending and invoice factoring, which are increasingly utilised by start-ups.

WHAT ELSE?

Poland – An Attractive Market for Investors
Poland stands out as an attractive destination for investors, particularly in the IT sector. The country boasts a vast pool of highly skilled IT professionals, a dynamic job market, and relatively low labor costs compared to Western Europe, while maintaining a high level of employee qualifications. This combination makes Poland a competitive and promising hub for technology-driven investments. Moreover Polish companies have access to various national and EU subsidies. This is particularly relevant for start-ups, as they can take advantage of numerous programs supporting R&D and innovation initiatives (please see section 10 above).

Lengthy Court Proceedings
Court proceedings in Poland, particularly in the Warsaw courts, are known for their lenghty duration. The wait for the first hearing averages around six months, and overall, proceedings in civil, commercial or labour cases can extend for about two years.

Mandatory e-delivery
Starting January 1, 2025, new entrepreneurs must have an e-delivery box. Individuals that registered their business with Central Register and Information on Business Activity before January 1, 2025 must have an e-delivery address from October 1, 2026. Companies that registered their business with the National Court Register before January 1, 2025, must have an e-Delivery address as of April 1, 2025.



PORTUGAL

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PORTUGAL

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PORTUGAL

LEGAL FOUNDATIONS

Portugal can be described as a civil law justice system, with Roman law serving as the foundation of the country's legal system, and German law, among others, providing a significant contribution to the development of the Portuguese Civil Code. Portugal is not under a federation regime and counts only with two autonomous regions: Azores and Madeira islands.

The Portuguese legal system is divided into several branches: (i) Civil law, which governs the relationships between individuals and organizations; (ii) Administrative law, which governs the relationships between individuals and the State; (iii) Commercial law, regulating commercial transactions and business relationships; (iv) Labour law, governing the relationships between employers and employees; (v) Criminal law, focused on the definition and punishment of criminal offences; (vi) Tax law, regulating the legal relationships established between the state and the taxpayer, with regard to tax collection; and (vii) Constitutional law, which governs the organization of the state, individual rights and duties, as well as the relationships between the different branches of the government.

As foreseen in article 209 of the Constitution of the Portuguese Republic, the Portuguese judiciary branch is divided between two separate sets of courts: the civil courts and the administrative courts (which may be organized in some cases by area of expertise – e.g. competition court). The jurisdiction of the Constitutional Court (Tribunal Constitucional) and the Court of Auditors (Tribunal de Contas) is also provided for, in addition to that of the Arbitration Courts and the Courts of Peace.

CORPORATE STRUCTURES

The most suitable and common vehicles to envisage starting a business in Portugal are commercial limited liability companies, either a public limited liability company (sociedade anónima – "S.A.") or a private limited liability company by "quotas" (sociedade por quotas — "Lda."). Both vehicles ensure the limitation of shareholders' liability to the extent of their investment in the company, in public limited liability companies vis a vis the capital they have subscribed, and, in private limited liability companies with the shareholders being responsible before the company for the payment of the other shareholders' participations, with the Articles of Association potentially setting forth that the shareholders will be liable towards creditors of the company up to a certain amount (which can be a joint or subsidiary liability).

Since common law systems do not typically have "quotas", they do not differentiate between shares and "quotas". In light of the preceding, we mainly refer to shares and shareholders (even when referring to private limited liability companies).

CORPORATE STRUCTURES, CONT'D

Public limited liability company (S.A.)

Five shareholders or single shareholder | Minimum capital of € 50,000

The share capital of public limited liability companies (S.A.) is represented by shares (ações) which consist of securities.

As a general rule, public limited liability companies (S.A.) may be incorporated by a minimum of five shareholders (either individuals or legal entities), with the incorporation of a single shareholder public limited liability company (S.A.) also being possible, as long as said shareholder is a legal entity.

Public limited liability companies (S.A.) have a minimum starting share capital of €50,000 being divided into shares, and formed either by direct incorporation, in which case there must be a private subscription of the entire share capital, or through a public subscription of its shares. Furthermore, 70% of contributions in cash may be postponed for a maximum period of 5 years.

Shares are nominative (and bearer shares are prohibited) and may be in book-entry form or represented by certificates, and must be registered (i) with the company, in a share ledger book, (ii) with a banking entity or (iii) with a central registration entity.

The identity of shareholders is not disclosed in the commercial registry certificate, meaning that the information on ownership is not available to the public. However, the commercial registry will always have available for consultation the incorporation deed which contains information on the founding shareholders. In addition, a list with the updated shareholder structure must be submitted to the commercial registry (and becomes available for consultation) whenever the company registers any change that entails the amendment of its Articles of Association.

Governance:
Public limited liability companies (S.A.) have a somewhat complex and intricate organization structure with three main governing bodies – Board of Directors, Shareholders' General Meeting and Audit Board. The alternative structures are:

- Board of Directors (or Sole Director when the share capital does not exceed €200,000) + Supervisory Board (or Sole Auditor);
- Board of Directors (including an Audit Commission) + Statutory Auditor ("Revisor Oficial de Contas" or "ROC"); or,
- Executive Board of Directors (or Sole Director when the share capital does not exceed €200,000) + General and Supervisory Board + Statutory Auditor.

Companies which adopt the structure mentioned in (i) must have a Supervisory Board + a Statutory Auditor/Audit Firm whenever they issue securities admitted to trading on a regulated market, or if two of the following limits are exceeded (for two consecutive years): (i) Total balance sheet of €20,000,000; (ii) Net turnover of €40,000,000; and (iii) An average number of 250 employees during the period.

CORPORATE STRUCTURES, CONT'D

Private limited liability companies (Lda.)

Typical for small and medium enterprises | Capital split in quotas, with a minimum of €1

As for private limited liability companies by "quotas", its capital is split in quotas with a minimum of €1 per quota. It is possible to incorporate a private limited liability company with only one shareholder provided that some requisites are met, with the term "unipessoal" being added to the corporate name, and provided that any given individual can only have one wholly owned private limited liability company ("unipessoal").

Quotas do not have a physical representation, being registered with the Portuguese Commercial Registry (which means that information on their ownership is, at every moment, available to the public) and cannot be listed in a Stock Exchange.

These companies correspond to the typical structure adopted by small and medium companies as they prove to be less cumbersome and with a lighter governing structure.

Governance:
Private limited liability companies have a simplified governance structure rarely comprising more than two bodies:

- Shareholders' General Meeting (if the company is a Sole Shareholder company this corporate body will only be comprised of the Sole Shareholder);
- 1 or more Managers.

In principle, this type of company only requires the appointment of a chartered accountant (Técnico Oficial de Contas) to certify the accounts (i.e., the appointment of a supervisory body is not mandatory). However, companies which do not have an Audit Board or a Sole Auditor must appoint a Statutory Auditor to audit the company's accounts when the company, for two consecutive years, meets two out of the following three requirements: (i) Total of assets greater than €1,500,000; (ii) Net sales and other revenue greater than €3,000,000; and (iii) An average number of employees during the financial year greater than 50.

A private limited liability companies by "quotas" (Lda.) can be converted into a public limited liability companies (S.A.) at any time.

Branch

Extension of the foreign company | No legal personality

Foreign companies may also carry on their business activities in Portugal by setting up a branch. The branch shall be deemed as an extension of the foreign company and not an autonomous legal entity, lacking a separate legal existence ("personalidade jurídica"), being the foreign company wholly responsible for all debts incurred by the branch.

Similarly, any rights acquired by the branch are considered acquired by the parent company itself.
Although a branch is not an autonomous and independent legal person for purposes of Portuguese law, but an extension of its parent company, it may act as an employer, entering into employment agreements with the employees.

The name of the Portuguese branch is going to be the name of the parent company added by the expression "Sucursal em Portugal" ("Branch in Portugal").

PORTUGAL

ENTERING THE COUNTRY

As a general rule, Portuguese law does not discriminate on the basis of nationality and does not impose specific restrictions on foreign individuals or foreign investment in corporate matters.

Nevertheless, a dedicated legal framework exists to safeguard strategic assets considered essential for ensuring national defence and security, or the security of the country's supply of fundamental services in the sectors of energy, transport and communications, which are deemed fundamental public security interests. This regime applies only where all of the following cumulative requirements are met:

1. the target operates in one of the covered sectors (energy, transport or communications);
2. the transaction results in a change of control over the target;
3. control is acquired by one or more persons from outside the European Union and the European Economic Area; and
4. the acquisition of strategic assets is capable of posing a real and sufficiently serious threat to national defence and security, or to the security of the country's supply of fundamental services of national interest.

If these requirements are met, the Portuguese Government may oppose the transaction where it determines that it presents a real and sufficiently serious threat to national defence and security or to the continuity of essential services critical to the national interest.

Moreover, foreign companies intending to conduct business in Portugal for more than one year are required to register a permanent representation. If a permanent representation is not registered, the foreign company will nevertheless be bound by all acts carried out in Portugal, and both the individuals that act on behalf of the company and the company's directors will be jointly and severally liable for obligations undertaken and acts performed on the company's behalf.

Authorization requirements arise only when investing in regulated sectors, such as insurance, banking, energy, media and financial services, among others.
Lastly, foreign investors in Portugal must also take into account EU and national competition rules and other EU policies that might be applicable to the case at hand.

PORTUGAL

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

Trademarks

What is protectable? A trademark may consist of a sign or set of signs capable of graphic representation, namely words, including names of persons, designs, letters, numbers, sounds, color, the shape of the product or its packaging, or a sign or set of signs that can be represented in a way that allows the object of protection conferred to its holder to be determined clearly and precisely, provided that they are suitable for distinguishing the products or services of one company from those of other companies.

Where to apply? Trademarks can be filed either with (i) the Portuguese Institute of Industrial Property, (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The application of a Portuguese trademark is very similar to the procedure before the EUIPO. The application can be easily filed via the online platform on Trademark | Justiça.gov.pt (justica.gov.pt). The Portuguese Institute of Industrial Property then reviews the application and registers the trademark if all trademark requirements are met. With publication in the Industrial Property Bulletin, the two months opposition period begins. Within this time period third parties can oppose the trademark.

Duration of protection? A trademark registration remains valid for a ten-year period. It can be renewed every 10 years after that for a fee.

Costs? Application costs for Portuguese trademarks for one class amount to EUR 148.71.* (EUR 37.69 are charged per additional classes). In addition, fees of the legal representative apply.

Patents

What is protectable? Inventions that are novel, non obvious to a skilled professional and have industrial applicability.

Where to apply? Patent applications can be filed with either the Portuguese Institute of Industrial Property (for Portuguese patents), European Patent Office (for European or Unitary Patents) or WIPO (for international PCT patents). The registration procedures before these offices slightly differ from each other, as well with respect to costs.

Duration of protection? The term of protection is in any case a maximum of 20 years from application date and must be maintained by annual fees.

Costs? Application costs for Portuguese patents is EUR 125.66*. In addition, fees of the legal and technical representative apply.

*Assuming electronic filing

PORTUGAL

INTELLECTUAL PROPERTY, CONT'D

Designs

What is protectable? Industrial or craft product or parts of it can be protected as design.

Where to apply? National designs may be registered with the Portuguese Institute of Industrial Property. To obtain protection throughout the EU, a Community Design may be registered with the EUIPO. Via the EUIPO Portuguese applicants can also file for designs with the WIPO.

Duration of protection? The term of protection is five years and can be renewed five times for another five years-period by paying the renewal fee. The maximum term of protection is therefore 25 years.

Costs? Application costs for Portuguese designs until 5 products amounts to EUR 125.66*. In addition, fees of the legal representative apply.

Utility Model

What is protectable? Utility models are very similar to patents and can be registered for technical inventions. A major difference is that the publication deadline for an application of a Utility Model is 6 (six) months.

Where to apply? See comments on patent applications above.

Duration of protection? In contrast to patents, the term of protection is only 10 years.

Costs? Application costs for a Portuguese Utility Model amount to EUR 219.91*. In addition, fees of the legal and technical representatives apply.

Copyright

What is protectable? Expressions of the intellectual creation of an author are protectable under the Portuguese Copyright and Neighbouring Rights Code. Copyright protection is granted immediately with the creation of a work. No registration is required. However, copyrights can be registered before IGAC – Inspeção-Geral das Atividades Culturais.

Duration of protection? Copyright protection ends 70 years after the author has passed away.

Trade Secrets

What is protectable? The Portuguese Code of Industrial Property protects know-how and business information of commercial value that is kept secret. Thus, protection required that companies take appropriate non-disclosure measures (e.g. marking information as trade secrets, implementing IT security measures, particularly access restriction and concluding NDAs).

Duration of protection? As long as appropriate measures are in place and information has a commercial value, trade secret protection applies.

*Assuming electronic filing

DATA PROTECTION/PRIVACY

The GDPR is applicable in Portugal. The GDPR execution law, Law No. 58/2019 of August 8 ("Portuguese Data Protection Law" or "DPL") introduced some specificities in the Portuguese data protection regime:

- Some GDPR and GDPR-related rules are applicable to deceased people, as per Article 17 DPL.
- The use of video surveillance is limited to the grounds set forth in law and must comply with specific requirements in Article 19 DPL.
- Personal data relevant for the employee contribution period may be stored by organizations without term.
- Consent is not valid as legitimate base for processing employees' data if (i) it results in a legal or economic advantage to the employee or if (ii) such data processing activity occurs under the performance of a contractual obligation (as per article 6/1/b of GDPR).
- Furthermore, images and other personal data of employees obtained through video or distance surveillance methods can only be used for disciplinary proceeding purposes if a criminal procedure is taking place under the same facts.
- Biometric data of employees can only be used for assiduity and punctuality control or to provide access to the employer's premises (only representations of biometric data may be used, and the collection process must guarantee the irreversibility of the data collected).

In addition to the above, please note that the Portuguese Data Protection Authority, CNPD – Comissão Nacional de Proteção de Dados ("**CNPD**"), issued Regulation 798/2018 which stipulates all data processing activities where a data protection impact assessment under Article 35 of GDPR is required.

Additional data protection obligations are included in certain sector-specific laws:

- Law No. 12/2005 of January 26 contains specific provisions regarding data protection on genetic and health information.
- Law No. 59/2019 of August 8 transposes Directive (EU) 2016/680 of 27 April 2016 establishing a regime for the processing of personal data by authorities for the prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal penalties, and on the free movement of such data.
- Law No. 18/2024 of February 5 regulates access to metadata regarding electronic communications in the context of criminal investigations, modifying Law No. 32/2008, of July 17, which had transposed Directive 2006/24/EC of 15 March 2006.
- The rules are applicable with regard to privacy on electronic communications are established in Law No. 41/2004 August 18 which transposes Directive 2002/58/EC of 12 July 2002. This law prescribes that the use of cookies requires specific and granulated consent of the user, and the unsolicited marketing electronic messages are subject to the data subject consent, except if, under exceptional circumstances, there is a prior commercial relation with the data subject from which the sender may deduce that the data subject is expecting to receive such communication. For these cases and for those where the message is addressed to legal entities, an opt-out tool must always be accessible.

The CNPD has also issued several guidelines in relation to the processing of personal data, the most recent being the Guidelines 1/2022 on Direct Marketing and the Guidelines 01/2023 on the Organizational and Security Measures applicable to the processing of personal data.

PORTUGAL

ARTIFICIAL INTELLIGENCE

Portugal does not yet have a standalone, cross-sector statute specifically regulating artificial intelligence (AI). However, the EU's AI Act entered into force in August 2025 and is directly applicable in Portugal. Its obligations are phased in over time on a risk-based basis, including early application of the prohibitions on "unacceptable-risk" AI from February 2025, followed by further transparency and governance measures across 2025-2027, and the bulk of system obligations applying from 2026. Portuguese authorities are preparing for national implementation measures (e.g., supervisory architecture and sanctions) within this EU framework.

Even without a dedicated AI statute, several Portuguese regimes constrain how AI may be built and deployed. The most relevant include the following:

- **Privacy and electronic communications:** the GDPR is directly applicable and complemented by its Portuguese enactment, which implements certain national specifications, including enforcement arrangements and specific provisions on processing in Portugal. The e-Privacy regime is set out in Law No. 41/2004 (as amended) and covers, among other things, confidentiality of communications and cookies. These frameworks are particularly relevant to automated decision-making profiling, and large-scale analytics that fuel AI systems.
- **Cybersecurity and incident reporting:** the National Cybersecurity Framework is primarily established by Law No. 46/2018 and complemented by Decree-Law No. 65/2021, including obligations on operators of essential services and digital service providers regarding security measures and incident notifications. These obligations are relevant for AI systems that support essential services or are operated by in-scope entities.
- **Consumer protection and digital content:** the Consumer Protection Law (Law No. 24/96) sets out core consumer rights. More specifically for the digital economy, Decree Law No. 84/2021 implements EU rules on sale of goods and supply of digital content and services, including conformity, updates, and remedies – highly relevant where AI functionality is supplied to consumers. Distance selling and off premises rules are in Decree Law No. 24/2014, and e commerce information and intermediary obligations appear in Decree Law No. 7/2004. Advertising practices are regulated under the Advertising Code (Decree Law No. 330/90, as amended). Together, these regimes govern AI enabled consumer experiences (e.g., personalized content, dynamic pricing, recommendation systems).
- **Intellectual and industrial property, text-and-data mining, and databases:** copyright is regulated by the Portuguese Code of Copyright and Related Rights (Decree-Law No. 63/85, as amended). The 2019 Digital Single Market Directive was transposed by Decree-Law no 47/2023, introducing text-and-data mining exceptions relevant for AI model training, subject to conditions (including opt-out for certain rightholders). Industrial property (including patents and trade marks) is governed by the Industrial Property Code (approved by Decree Law No. 110/2018). The sui generis database rights arising from Directive 96/9/EC is implemented in Portugal by Decree-Law No. 122/2000, protecting databases against extraction and reutilization of substantial parts, which is material when AI systems train on structured datasets.
- **Constitutional guarantees and fundamental rights:** Deployment of AI in Portugal must respect constitutional rights and principles, including human dignity, equality, protection of personal data and privacy, and the rule of law. These constitutional guarantees provide a baseline against which AI enabled activities are assessed, reinforcing fairness, transparency, and human oversight.

Throughout 2026, the AI Act's risk-based obligations increasingly shape compliance expectations in Portugal, on top of the existing sectoral laws above. Organizations building or deploying AI in Portugal should map their systems to the AI Act's risk categories, implement appropriate governance, transparency and human-oversight controls, and monitor Portuguese implementing measures designating competent authorities and sanctions, alongside any sector-specific guidance from regulators such as the CNPD on data protection impacts of AI.

PORTUGAL

EMPLOYEES/CONTRACTORS

The provision of work in Portugal can be contractually regulated in one of two ways: (i) an employment contract or (ii) a contract for the provision of services. When it comes to decide, the organization looking to hire will have to reflect about the type of service to be provided, and thus decide on the nature of the relationship to be established.

In this regard, it should be noted that Portuguese Labour Code sets forth a legal presumption that an employment relationship is in force whenever two of the following circumstances are met: (i) the place of the activity is either at the premises or determined by the beneficiary of the activity; (ii) work tools and equipment belong to the beneficiary; (iii) the provider follows a timetable determined by the beneficiary; (iv) the provider is paid a certain and regular amount as a consideration of the activity; (v) the provider executes management or supervision duties within the beneficiary's organization. Portuguese courts have been pointing out that the decisive criterion to verify the existence of an employment relationship is a concept called as legal subordination: the power to give binding orders by one party and the correspondent duty of obeying to such orders by the other party (power of direction). The assessment of legal subordination requires a case-by-case analysis on the several terms, conditions, and circumstances of the concrete contractual relationship, such as: besides the ones provided for in the legal presumption, nature of the services/activity, type of orders, existence of employees within the beneficiary rendering the same services/activity, independent or corporate email, exclusivity, economic dependence, remuneration based on time spent as opposed to other criteria, absences and vacations regime, etc. The burden of proof to rule out the existence of an employment contract lies with the beneficiary.

On the other hand, in contracts for the provision of services the provider is not subject to the employer's power of direction.

Employers are subject to several obligations with which they must comply - minimum wage, working hours, absence regime, payment of holiday and Christmas bonuses, social security contributions, withholding taxes, etc. - failing which they may be liable for administrative offences. As far as the provision of services is concerned, the contracting entities do not have to assume such a large number of obligations, as most of them are borne by the service provider (contractor) itself.

In Portugal, most employment relationships arise out of: (i) employment contracts subject to a defined term (whether fixed or unfixed); and (ii) employment contracts without a term (open-ended agreements). Nonetheless, even though verbal agreements are valid and binding, the employer is obliged to provide the employee with written information concerning the most relevant aspects of the employment relationship, such as the workplace, normal working period, professional category, remuneration, duration of holidays, trial period, etc.

As a general rule, term employment contracts may only be entered into to satisfy temporary needs of the employer (e.g. replacement of absent employees, the execution of a specific project, an exceptional increase in a corporation's activity, seasonable activities) and for the period of time strictly necessary to fulfil said temporary needs. As opposed to open-ended employment contracts, term employment contracts must be agreed in written form and the justification alleged for its execution has to be clearly detailed in the contract so as to allow the employee to understand why he or she is being hired under a temporary contract. In addition, a clear connection between the relevant grounds and the duration of the agreed term must be included. If these requirements are not met, the term may be considered invalid, being the employment contract converted into an open-ended employment contract.

Fixed-term employment contracts are subject to a maximum duration of two years including renewals. Unfixed term employment contracts may last for a maximum period of four years. Nevertheless, the duration of such contracts may not exceed the duration of the employer's temporary need and the underlying grounds must still apply at the time of any renewal of the contract.

EMPLOYEES/CONTRACTORS, CONT'D

Under Portuguese law, save for certain exceptional situations, employers may only unilaterally terminate open-ended employment agreements on disciplinary grounds (which requires, among other aspects, a very serious breach of the employees' duties) or with recourse to redundancy procedures, which imply the existence of objective reasons. In both situations, somewhat complex legal procedures are required to be followed.

Term employment agreements, on the other hand, may be terminated under the general rules applicable to open-ended employment contracts and with notice at the end of the relevant term.

Terminations that do not meet the legal requirements may be considered as an unlawful dismissal by the court. An unlawful dismissal could entail several legal consequences, notably the following: the dismissed employees are entitled to (i) the reinstatement in his/her job position or, at employee's option; (ii) an indemnity payment; (iii) the payment of the remuneration not received from the date of the dismissal up to the date of the court's final decision and (iv) the payment of an indemnity for all suffered damages.

CONSUMER PROTECTION

The governing of consumer relations in Portugal is quite complex and comprehensive. Most of the laws derive from EU directives and regulations, notwithstanding some additional requirements added by Portuguese lawmakers.

The main concerns to consider when engaging with consumers in Portugal are:

- **Quality of goods and services:** goods and services for consumption must be fit for their intended purpose and produce their effects in accordance with the standard laid down by law or, if no law is applicable, pursuant to the legitimate expectations of the consumer.
- **Protection of health and physical safety:** It is prohibited to supply goods or services which, under normal or foreseeable conditions, involve risks incompatible with their use.
- **Information rights:** providers of goods and services must inform consumers about the price, term, warranties, delivery time and assistance on a clear, objective and suitable manner. This is mandatory also for manufacturers, importers, distributors, storekeepers and all those which form the supply chain. All information to Portuguese consumers must be provided in Portuguese.
- **Protection of consumers' economic interests:** consumers may not be forced to pay for goods or services they did not order; also, consumers are entitled to post-sale assistance.

There are also specific concerns regarding advertising: regardless of the means used for the advertising message (which includes TV, radio, social media or others), advertisements must not: (i) use national or religious symbols, or historic characters on a negative manner; (ii) appeal to the use of violence or any criminal activity; (iii) act against the dignity of the human being; (iv) contain any discrimination in relation to race, language, territory, religion or gender; (v) use the image or words of a third party without its permission; (vi) use obscene language; (vii) encourage any behavior against the environment protection; or (viii) use any political or religious content. Advertisement must also be explicitly identified as such and be faithful to the facts of the promoted item or service. To be noted that there are significant restrictions to advertisement with children (even if not acting as the main characters of the message), as well as specific rules for the advertisement of alcoholic drinks, tobacco, hazard games, medicines and others.

CONSUMER PROTECTION, CONT'D

Under Portuguese law, merchants must make the official complaints book available to consumers upon request. In addition, online service providers must offer an electronic complaints book, subject to supervision by the Economic and Food Safety Authority (ASAE). Whether this obligation also extends to companies without a permanent establishment in Portugal is debatable. Portuguese consumer associations have brought class actions against businesses for alleged non-compliance; however, the prevailing Portuguese case law has generally held that these rules do not apply to companies lacking a permanent establishment in the country. Nevertheless, the Portuguese Supreme Court of Justice has recently referred a case concerning the electronic complaints book to the Court of Justice of the European Union, and it remains to be seen if this changes the path.

Regarding the warranties' legal regime, to be noted that the maximum warranty term for immovable goods is of 10 years, and of 3 years for movable goods and digital services. Digital services must also abide by some additional rules regarding the functionality, compatibility and interoperability of the services provided.

For online transactions with consumers, at distance contracts have a specific regime that should be taken into account. All merchants must provide to consumers, before they enter into an agreement (non-exhaustive list): its identification, its address, telephone number, email, taxpayer number, description of the goods or services ordered, full price (including taxes and posting), duration and registration or license number (if applicable). The terms of the sale must be provided to consumers in a durable format. To be noted the right to withdraw: in most cases, consumers are entitled to withdraw from a contract with no penalties within 14 days after receiving the good or the service.

Consumers or consumer associations are entitled to file class actions against companies as a means of protecting consumer rights and ensuring businesses comply with legal obligations. These class actions are typically initiated on the grounds of unfair commercial practices, defective products, misleading advertising, or failure to comply with regulatory requirements, such as the obligation to provide access to the electronic complaints book. In fact, consumer protection class actions are an emerging trend in litigation in Portugal, due to the very plaintiff friendly legal framework existing in Portugal. Some of the characteristics that shape the class action proceedings in Portugal are: (i) the opt-out system, in which all interested parties are, by default, considered represented in the class action, unless they express their intention to opt out by the end of the evidence production phase; (ii) the absence of an autonomous preliminary phase for certification of the group represented in the action, which could prevent the pursuit, even at a preliminary stage, of actions that do not meet the conditions to proceed as a class action; (iii) the obligation for the defendant to submit a joint defense on procedural aspects and on the merits of the case within a short period of time; (iv) the admissibility of third-party funding, without a maximum limit and (v) the existence of legal limits on the recovery of costs by the defendant, even if they win the case. When a court rules in favor of consumers, companies may be required to pay compensation, cease unlawful practices, or face regulatory penalties.

It is worth highlighting that in order to promote a more fair and inclusive society, the EU has adopted a set of guidelines to ensure that people with disabilities enjoy equal access to products and services, especially digital ones. Among these instruments, the European Accessibility Act (that was transposed into the Portuguese Law) merits special attention: it harmonized accessibility requirements across the Union and removed barriers to the free circulation of accessible products and services within the EU Single Market. Non compliance with the obligations established therein may expose undertakings to administrative offences, as well as to reputational and commercial risks, and may also give rise to consumer class actions.

Geo-blocking prohibitions and online dispute-resolution mechanisms approved by EU regulations are also in force in Portugal.

PORTUGAL

TERMS OF SERVICE

In Portugal, online terms of service that operate as adhesion terms must be fully disclosed and expressly accepted by the user to be enforceable. The clauses that are not properly communicated, or are insufficiently highlighted, are excluded from the contract, and the drafter bears the burden of proving adequate and effective disclosure. Any material changes to the terms of service must also be accepted (or not rejected, depending on how the terms govern this topic) by the user.

Additionally, some clauses are absolutely prohibited (e.g., advance exclusions or limitation of liability for death, personal injury, willful misconduct or gross negligence; clause obstructing access to courts; clauses that allow the drafter to alter their own obligations) and, if used in B2C terms of services, are not only null (i.e., deprived of legal enforceability), but also an administrative offence, triggering the application of a fine. For B2C contracts, Portuguese consumer protection rules apply automatically whenever the contract is closely connected to Portugal, even if the contract includes a foreign law clause.

In addition, sector specific and subject specific rules also limit how terms of service can be drafted. For example, software licenses cannot validly prohibit decompilation when it is strictly necessary to achieve interoperability; any such restriction is deemed null, and interoperability should therefore be expressly carved out. It should also be noted that internal complaint-handling procedures included in the terms of service do not replace the statutory obligation to provide and process the official Complaints Book (including the electronic version) where the applicable regime requires it.

TAX/FUNDING

The Portuguese tax system has a couple of instruments to captivate and retain investors, both individuals and corporate entities. Regarding individual investors, the “NHR 2.0” (IFICI) regime, that specifically applies to member of corporate bodies in entities certified as startups, among others, and the Regressar program, that aims to bring back to Portugal individuals that have been out of the country for, at least, the last five years.

Under the IFICI regime, an individual having its tax residence in Portuguese territory may benefit from a special tax framework for Portuguese Personal Income Tax ("PIT") purposes, provided that a set of legal requirements is met. In particular, the regime foresees: (i) taxation at a flat rate of 20% on employment and/or self-employment income obtained in Portuguese territory, provided that such income arises from highly qualified activities (a criteria under which the taxpayer must qualify) carried out in the fields of scientific research, innovation, technology (a criteria under which the company employing the taxpayer must qualify); and (ii) general exemption on foreign-sourced income (except for pensions), which must, however, be reported to the Portuguese Tax Authorities as its amount contributes for the determination of the applicable tax rate on the remain taxable income that may be subject to progressive rates.

The IFICI regime is applicable to individuals who become resident for tax purposes in Portugal without having been so in the previous 5 years, and who carry out qualifying activities through eligible entities. IFICI individuals may benefit from this status for a 10-year period, after which they will be taxed in accordance with the general PIT rules.

TAX/FUNDING, CONT'D

Complementarily, the Regressar Program seeks to encourage former Portuguese tax residents to return to Portugal by granting a partial exemption on employment and self-employment income. Individuals who re-establish tax residence in Portugal after at least five years of non-residence may benefit from an exclusion of 50% of such income from taxation, up to the cap of € 250.000, during a 5-year period. Although distinct in nature and scope from IFICI, this regime may prove particularly relevant for Portuguese entrepreneurs or highly qualified professionals currently residing abroad who intend to reintegrate the national startup ecosystem.

Furthermore, still on the individual level, there are regimes available to structure equity incentive plans that may prove to be quite efficient from a tax perspective for senior employees, as well as management teams. With regard to equity-based compensation, Portugal has introduced a revised regime for stock options and similar plans that is particularly relevant for startups. As a general rule, gains derived from stock option plans were taxed as employment income at the time of exercise (with the difference between fair market value and strike price subject to PIT), with subsequent capital gains on sale subject to capital gains tax. Recent legislative reforms have created a regime under which taxpayers receiving options, subscription rights or other equity-linked instruments from qualifying entities, including startups, scaleups, micro, small and medium enterprises and companies engaged in innovation activities are taxed only at the moment of liquidity (e.g., sale of the acquired shares on the market or other disposal event) at a fixed effective tax rate of 28% applied to 50% of the capital gains realized (which means a tax rate of 14%).

At a corporate level, and as of 2026, Portuguese Corporate Income Tax ("CIT") is levied at a standard rate of 19% on taxable profits derived by resident entities, to which a municipal surcharge (derrama municipal) of up to 1.5% may be added, as well as a State surcharge (derrama estadual) applicable progressively to entities whose taxable profit exceeds €1.5 million. Small and medium-sized enterprises and small mid-cap companies will benefit from a 15% rate on the first €50.000 of taxable income.

Of particular importance to innovation-driven companies is the R&D tax incentive system known as SIFIDE II (Sistema de Incentivos Fiscais à I&D Empresarial), recently extended to 2026. This regime allows companies to deduct from their taxable profits a significant percentage of qualifying research and development expenses incurred in a given fiscal year. Eligible expenses include expenses with staff directly involved in R&D activities, patent registration costs, acquisition of certain assets allocated to R&D projects and. This regime offers a base rate for tax deduction from taxable income of 32,5% of R&D expenses. In addition, an incremental rate of 50% of the increase in this expense compared to the average of the previous two years is applied, up to a limit of €1.5 million.

In addition, Portugal also provides for the Investment Support Tax Regime (Regime Fiscal de Apoio ao Investimento – RFAI), which may be particularly relevant for startups entering a scaling phase involving significant capital expenditure, namely in the areas of computer programming and consultancy, motion picture, video and television programming, manufacturing industries. This regime allows companies to deduct from their CIT the amount corresponding to 10% or 30% of the relevant investments made, depending on the region of Portugal in which the investment is made, with increases for certain expenses. It also allows deduction up to the total amount of corporate income tax collected in the case of investments made during the year of start of activity and in the following two tax periods. The RFAI supposes an investment that will create jobs and maintain them until the end of the minimum maintenance period for the assets being invested in.

TAX/FUNDING, CONT'D

The Portuguese tax system bears a great deal of influence from the EU legislation. Relevant for investment, regimes such as the ones deriving from the Interest & Royalties Directive and Parent-Subsidiary Directive should be highlighted, as they have been transposed into the Portuguese CIT Code and therefore are fully applicable to Portuguese corporate entities under certain criteria, benefiting from potential exemptions on dividends, interests and royalties paid or received, as well as capital gains exemption, provided some criteria are met.

With respect to venture capital structures, Portugal has developed a specific legal and tax framework applicable to Venture Capital Vehicles. As a general rule, these vehicles benefit from a tax-neutral regime at the level of the fund, with income obtained within the vehicle not being subject to Corporate Income Tax, except in limited circumstances. Taxation is generally shifted to the level of the participants, with resident investors subject to taxation according to the nature of the income distributed, and non-resident investors often benefiting from exemption on income derived from units in venture capital funds, provided that they are not resident in blacklisted jurisdictions and are not held, directly or indirectly, in more than 25% by resident entities.

Furthermore, the Portuguese tax system includes an Incentive for Corporate Capitalisation (Incentivo à Capitalização das Empresas), designed to promote the capitalization of companies, encouraging the use of equity instruments in raising the capital necessary for financial health and promoting business investment. Under this regime, companies may deduct from their taxable profit a notional return calculated over qualifying increases in equity, including cash contributions, conversion of shareholder loans into share capital and retained earnings reinvested in the company. The annual deduction from taxable income provided for in the ICE Regime is now calculated by reference to a composite rate consisting of a variable rate, corresponding to the average 12-month Euribor rate for the tax period, plus a spread of 2% in the case of small mid-cap companies or SMEs. The deduction cannot exceed, in each tax period, the greater of the following limits: (i) €4 million; or (ii) 30% of earnings before interest, taxes, depreciations and amortizations.

Arising from the Portuguese tax system there are also Stamp Duty exemptions on (i) shareholder loans and respective interest granted by entities that detain at least 10% equity of their subsidiary for a period of at least 1 year, and (ii) intragroup cash-pooling loans granted for less than 1 year and respective interest.

Portugal's startup ecosystem reached a point of consolidation by 2025, with now more than 5,000 active startups (an increase of around 8% compared to 2024), around 75% of which were created in the last five years. In relation to key trends, the ecosystem is focused on artificial intelligence, biotechnology, sustainability, and green technologies.

Portugal offers a dynamic landscape of funding and subsidies to support innovation and entrepreneurship. These opportunities are available through both national initiatives and European Union ("EU") programs.

Nonetheless, public funding is subject to state-aid rules, which regulate the assistance provided by public authorities that give certain companies or industries an advantage over others, potentially distorting competition and affecting trade. As a general rule, state-aid is illegal and subject to validation by the EU Commission upon notification. However, exemptions exist for aids that serve objectives of common interest, such as regional development, research and innovation, or environmental protection. Small amounts of aid, known as "de minimis" aid (typically up to €200,000 over three fiscal years), are considered too minor to significantly affect competition and can thus be received without prior notification or approval by the EU Commission.

TAX/FUNDING, CONT'D

Additionally, the General Block Exemption Regulation (GBER) allows for certain categories of aid to be granted without prior notification to the European Commission, covering activities like training, support for small and medium-sized enterprises (SMEs), environmental protection, and research and development. Companies seeking funding must ensure that any public funding received complies with state-aid rules to avoid the risk of having to repay the aid with interest.

This involves conducting due diligence to assess whether the funding constitutes state-aid and if it qualifies for any exemptions, maintaining transparent records, and consulting with legal experts or relevant authorities to navigate complex regulations. By understanding the legal framework and ensuring compliance, businesses can effectively leverage available resources to support growth and innovation while minimizing risks associated with state-aid violations.

European Union Funding:

- InvestEU Program: The European Commission has launched an initiative to simplify administrative procedures, reducing reporting obligations for businesses, particularly small and medium-sized enterprises (SMEs).
- European Innovation Council (EIC): the EIC supports high-risk, high impact technologies and offers funding through programs such the EIC Accelerator, providing grants up to €2.5 million and equity investments up to €15 million for startups and SMEs.
- SME Fund 2025: managed by the European Union Intellectual Property Office (EUIPO) this fund offers financial support to EU-based SMEs for intellectual property activities, including grants for trademarks, designs and patents.

Portuguese National Initiatives:

- Portugal 2030: a strategic framework allocating €23 billion in EU funds to support innovation, amongst other things. It offers funding for startups, businesses and research projects, promoting digital transformation, and regional development. Both domestic and foreign entities can apply with specific programs.
- Startup Portugal's Program: a governmental initiative that provides a range of services, including financial support, tax incentives, and access to networks of investors and mentors, aiming to foster entrepreneurship and innovation.
- Vouchers for Startups – New Green and Digital Products: an initiative that provides €30,000 in financial support to startups working on green and digital projects, aiming to promote sustainable and technological innovation.

Contact Points:

- Startup Portugal: a public-private think tank offering information and support for entrepreneurs.
- Agência Nacional da Inovação: the National Innovation Agency promotes innovation and technological development, facilitating collaboration between research institutions and industry.

WHAT ELSE?

Under Portuguese law, a tax identification number will be mandatory for both foreign individuals and legal entities who intend to invest or be appointed to a government body of a Portuguese company, with the need to appoint a tax representative when said foreign investor is not based in an EU member country (although for individuals it may now be possible to waive the appointment of a tax representative by opting in to electronic notifications from the Portuguese Tax Authorities).



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ROMANIA

LEGAL FOUNDATIONS

Founding Principles
Romania has EU-shaped legislative and institutional frameworks.

Apart from the EU founding treaties and legislation, the Romanian legal system is shaped by multilateral or bilateral treaties dealing with foreign investment issues, exercise of economic activities, freedom of trade, etc.

The Constitution of Romania provides for the fundamental principles of private property and free market economy, as well as explicit limitation and control of powers vested in public authorities.

Foreign investments in Romania generally benefit from the EU standards of protection: (a) no discrimination between national and foreign (including other EU members) investors and investment types and industries; (b) right to repatriation of profits (dividends) compliant with the conditions applicable throughout the EU; (c) protection against nationalization, expropriation and similar measures other than on the grounds and following the procedures strictly regulated by law; (d) right of recourse to dispute-settlement mechanisms.

The Constitution of Romania and secondary legislation also guarantee free access to justice.

Civil Law Legal System
The Romanian legal system is a civil law system, based on the interpretation and implementation of legal enactments.

Therefore, legal precedents are not acknowledged as a formal source of law (although precedents may be presented to courts for exemplification purposes, with the latter not being bound to observe them).

However, the High Court of Cassation and Justice may be asked to issue binding decisions setting forth a set of rules to be followed by all courts of law when ruling over matters in respect of which there is no unitary practice. Save for the previously referred case, the rulings issued by the High Court of Cassation and Justice are not binding but the lower-level courts usually follow their directions.

The European Court of Human Rights' practice (applicable also to legal entities in certain cases) should be considered and applied, as rule, in the Romania's domestic jurisprudence and authorities' approach. The practice of the Court of Justice of the European Union is also mandatory to follow.

LEGAL FOUNDATIONS, CONT'D

Judicial system
The Constitution of Romania guarantees the independence and immovability of the magistrates.

The Constitutional Court of Romania ensures compliance of the most important legal enactments (laws and government ordinances) with the Constitution of Romania and its principles, while the courts of law do so for the secondary and tertiary legislation (government decisions, orders, instructions, etc.).

The Romanian (civil) court of law system is comprised of: (a) common courts (Romanian: "judecătorii") – located in the main towns; (b) tribunals – located in each county and in Bucharest; (c) courts of appeal – corresponding to larger regions (i.e., to 2-5 counties); and (d) the High Court of Cassation and Justice – the highest jurisdiction in Romania (this court has also a relevant role in interpreting and securing the unitary application of the legislation at national level).

According to its size or nature, a claim may be settled in first instance by any of these courts. Specialized courts, as well as specialized sections within the courts, are organized in matters like labor law, administrative and fiscal law, insolvency.

Romanian justice is organized on the principle of double jurisdiction. Therefore, as a rule, case decisions issued by a first instance court are subject to challenge before a higher court.

Romanian nationals and companies have also access to the European courts, including the Court of Justice of the European Union and the European Court of Human Rights.

CORPORATE STRUCTURES

A business presence may be set up in Romania in one of the five legal forms provided under the Romanian Company Law, namely:

- general partnership;
- limited partnership;
- limited partnership by shares;
- limited liability company; and
- joint-stock company.

Each of the above legal forms of company has legal personality.

In addition, a business presence may also be set up as representative office or branch. The Romanian law does not recognize to any of these presences separate legal personality from their parent companies' and so there is no separate patrimony nor separate liability of a representative office or branch.

A branch may be used to carry out business in Romania under similar conditions with a Romanian company (except for some specific restrictions, e.g., land ownership), but cannot exceed in any case the scope of business/operations that the parent company is entitled to perform in its country of incorporation according to its by-laws.

The representative office's business would be limited to conducting marketing and promotional activities, finding potential business partners for the parent company, receiving offers or otherwise intermediating transactions for the benefit of the parent company or support its business activity.

CORPORATE STRUCTURES, CONT'D

Except for certain types of businesses that could only be organized as joint stock companies (e.g., banking, pension, insurance, securities, and investment companies), any corporate legal form could be chosen to carry out a business activity.

EU companies occasionally choose to open and run branches in Romania to benefit from the passporting rules under the EU law.

Most business activities in Romania are conducted through either a joint stock company (SA) or a limited liability company (SRL), while the other forms of organization are rarely met in practice, mainly because they entail the partners' personal liability for the obligations of the company. By contrast, in case of both the SA and the SRL, the law excludes the shareholders' personal liability for companies' obligations, save for exceptional cases when the corporate veil would be pierced.

Except for restrictions in furtherance of the foreign direct investments screening regime (please refer to section #3 below), there are no general restrictions relating with the foreign ownership of Romanian companies.

Below is a comparative presentation of the main matters of interest in relation to the SA and SRL forms of companies:

Joint Stock Company (SA)	Limited Liability Company (SRL)
Number of shareholders Minimum: 2 shareholders	**Number of shareholders** Minimum: 1 shareholder Maximum: 50 shareholders
Share capital Minimum amount: RON equivalent of EUR 25,000. An SA is established by full and simultaneous subscription of the share capital by the signatories of the articles of association (AoA), or by public subscription. In the event of full and simultaneous subscription of the share capital by all signatories of the AoA, the share capital paid up upon establishment may not be less than 30% of the subscribed one. The difference in subscribed share capital shall be paid up: 1. for shares issued for a cash contribution, within 12 months from the date of registration of the company; 2. for shares issued for a contribution in kind, within a maximum of 2 years from the date of registration.	**Share capital** Minimum amount upon establishment: RON 500. 30% of the value of the subscribed share capital has to be paid no later than 3 months from the date of registration, but before starting operations in the name of the company, and the difference of the subscribed share capital will be paid: 1. for the cash contribution, within 12 months from the date of registration; 2. for the contribution in kind, within a maximum of 2 years from the date of registration. For the already incorporated SRLs, the minimum value of the share capital of SRLs is established according to the level of net turnover reported in the annual financial statements for the previous financial year, respectively, in the case of companies that have registered a net turnover over RON 400,000, the minimum value of the share capital is RON 5,000.

CORPORATE STRUCTURES, CONT'D

Joint Stock Company (SA)	Limited Liability Company (SRL)
Types of contributions Cash contributions are mandatory. In-kind contributions are allowed. Contributions of receivables are allowed upon setting up an SA (being assimilated to in-kind contributions), except for the case in which the SA is established by public subscription. Contributions of receivables are not allowed for share capital increase purpose. Conversion into shares of debts of the company towards its shareholders/ other creditors is permitted. Contributions by form of labor and/or services are not allowed.	**Types of contributions** Cash contributions are mandatory upon setting up an SRL. In-kind contributions are allowed. Contributions of receivables are not allowed for either setting up an SRL or share capital increase purposes. Conversion into shares of debts of the company towards its shareholders/other creditors is permitted. Contributions by form of labor and/or services are not allowed.
Shares Unless otherwise provided for in the company's by-laws, shares are freely transferable between shareholders and to third parties.	**Shares** (i.e., social parts) Social parts can be freely transferred between shareholders. Unless otherwise provided for in the company's by-laws, transfer of social parts to third parties must be approved by the shareholders representing at least ¾ of the share capital. Other restrictions to the transfer may be included in the company's by-laws.
Nationality requirements There are no requirements from the perspective of local nationality/residency of the company's directors/members of the board of directors or similar corporate bodies (i.e., they may be Romanian or foreign citizens in any proportion). The directors or board members must register for fiscal purposes in Romania (even if the income potentially derived in Romania is not subject to the Romanian income tax).	**Nationality requirements** Similarly with the SA.
Business activities The activities conducted by a Romanian company must be listed in the by-laws thereof, in detail, according to the Romanian Code of Classification of the Activities from the National Economy Rev3 (i.e., Romanian version of NACE Rev3), with the specification of the main activity intended to be performed.	**Business activities** Similarly with the SA.

CORPORATE STRUCTURES, CONT'D

The SRL allows for the minimization of the efforts associated with the functioning and maintenance of a company in Romania; however, its legal regime is not comprehensively regulated under the Romanian Company Law; consequently, the SRL's by-laws must be carefully drafted to properly address all aspects of interest to the shareholders (including mechanisms for the transfer of shares such as tag along, drag along, etc.).

In addition to the partnerships with legal personality governed by the Romanian Company Law, the Romanian Civil Code permits the setting up of partnerships without legal personality. The partners are personally liable for the partnership's liabilities, which renders this format rather unattractive to start-ups.

Business activities may also be carried out in Romania by individuals acting independently (i.e., as opposed to activities under employment agreements). Such individuals must register with the Romanian Trade Registry as either (i) authorized individual, (ii) family enterprise or (iii) individual enterprise. An individual carrying out business under any of the above-mentioned forms would be fully and personally liable with his or her private and business assets.

ENTERING THE COUNTRY

Foreign direct investments are subject to scrutiny in Romania under the regime established through Government Emergency Ordinance no. 46/2022, implementing the EU Regulation (EU) 452/2019 establishing a framework for the screening of foreign direct investments into the European Union ("FDI Regulation"). Several amendments were introduced following the enactment of the regime – seeking, among others, an ever-wider scope of application.

Implementing a foreign direct investment prior to its approval is prohibited, subject to:

- administrative fines of up to 10% of the total turnover derived in the financial year prior to sanctioning (special rules applying in case, e.g., the investor did not derive turnover/ is a newly set up undertaking); and
- the annulment of the transaction, in case a foreign direct investment/ new investment/ EU investment (please see the definitions below) has been implemented in breach of the provisions of Regulation (EU) 452/2019 or of GEO 46/2022 **and** affects security or public order of Romania or is likely to affect projects or programs of interest to the European Union. A subsequent legislative amendment stated, generally, that agreements/ clauses implementing an investment which was not authorized pursuant to the regime are considered null and void. Given the broad drafting, this provision raises practical questions – we understand that the authority's current intention is to only apply this measure if national security risks are identified.

ENTERING THE COUNTRY, CONT'D

Foreign direct investments, defined as: investments of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the funds are made available in order to carry on an economic activity in Romania, including investments which enable effective participation in the management or control of a company carrying out an economic activity; the foreign direct investment also covers changes in the ownership structure of a foreign investor, should following such change, control be exercised, directly or indirectly by (a) non-EU citizens, (b) non-EU based companies or (c) other non-EU entities without legal personality;

A non-EU investor is defined as:

1. a natural person, who is not a citizen of an EU Member State, who has made or intends to make a foreign direct investment in Romania, or who has multiple citizenships, one of which is of a non-EU State;
2. a legal person whose headquarters is not located in an EU Member State, which has made or intends to make a foreign direct investment in Romania;
3. a legal person whose headquarters is located in an EU Member State, which has made or intends to make a foreign direct investment in Romania, in which control is exercised directly or indirectly by: a natural person who is not a citizen of an EU Member State, a legal person whose headquarters is not located in an EU Member State or another legal entity, without legal personality, organized under the laws of a State which is not an EU Member;
4. the fiduciary trustee of an entity without legal personality which has made or intends to make a foreign direct investment in Romania, or a person in a similar position, provided that the person is not an EU citizen (for natural persons) or does not have its headquarters in an EU Member State (for legal persons) or the person was incorporated according to the laws of a state that is not an EU Member.

New investments, defined as: initial investments in tangible and intangible assets linked to the start-up of the activity of a new undertaking (setting up a new location for carrying out the activity for which financing is required, technologically independent from other existing units); an expansion of the capacity of an existing undertaking (the increase of production capacity at the existing site due to the existence of an unmet demand); a diversification of the production of an undertaking into products not previously manufactured (obtaining products or services not previously produced in the concerned unit); a fundamental change in the overall production process of an existing undertaking;

European Union investments, defined as: investments of any kind by a European Union investor aiming to establish or maintain lasting and direct links between the European Union investor and the entrepreneur to whom or the undertaking to which the funds are made available in order to carry on an economic activity in Romania, including investments which enable effective participation in the management or control of a company carrying out an economic activity.

An EU investor is defined as:

1. a natural person who is a citizen of an EU Member State, who has made or intends to make an investment in Romania, the EU investor includes natural persons who are Romanian citizens and legal persons headquartered in Romania, having made or intending to make an investment in Romania;
2. a legal person whose headquarters is located in an EU Member State, which has made or intends to make an investment in Romania;
3. a legal person whose headquarters is located in an EU Member State, which has made or intends to make an investment in Romania, in which control is exercised directly or indirectly by: a natural person who is a citizen of an EU Member State, a legal person whose headquarters is located in an EU Member State or another legal entity, without legal personality, organized under the laws of a State which is an EU Member;
4. the fiduciary trustee of an entity without legal personality which has made or intends to make an investment in Romania, or a person in a similar position, provided that the person is an EU citizen (for natural persons) or has its headquarters in an EU Member State (for legal persons) or the person was incorporated according to the laws of a state that is an EU Member.

ENTERING THE COUNTRY, CONT'D

Separately, while not expressly regulated, the Romanian authority has also screened non-EU internal restructurings. EU internal restructurings have been subject to inconsistent practice i.e., excluded from scope in some cases, while in others reviewed on merits – these, as well as other particular situations (e.g., foreign-to-foreign transactions) should be approached on a case-by-case basis.

Portfolio investments (defined under Romanian law as the acquisition of securities on organized and regulated capital markets, which do not allow direct participation in the management of the company) are excluded from the scope of the law.

The obligation to file an FDI notification before the Romanian competent authority is triggered if two cumulative conditions are met:

1. the economic activity concerns one of the areas provided by Decision of the Romanian Supreme Council of National Defense 73/2012 ("Decision 73/2012"), by reference to the criteria provided by Art. 4 of the FDI Regulation – Decision 73/2012 regulates the areas of activity subject to national security scrutiny in a rather broad manner (with no indication as to their scope): security of the citizen and of collectivities; border security; energy security; transport security; security of supply with vital resources systems; critical infrastructure security; security of information and communication systems; security of financial, tax, banking and insurance activities; security of production and circulation of weapons, ammunition, explosives, toxic substances; industrial security; protection against disasters; protection of agriculture and environment; and protection of privatization operations of state-owned companies or their management. **and**
2. the investment exceeds EUR 2 million (although, exceptionally, foreign direct investments below the EUR 2 million threshold can also be subject to review and authorization if they can impact or entail risks on security or public order) – Guidelines have been adopted with regard to value computation.

A EUR 10,000 examination fee per FDI notification is due at the date of submission, which is reimbursed in case the Romanian competent authority finds that an investment falls outside the scope of the FDI regime.

Note that certain amendments to the FDI regime are envisaged to be adopted in the following period (the current project includes, e.g., a proposed increase of the value threshold/ measures to streamline the review process). While it is our understanding that it is intended for such amendments to be brought into force as soon as possible, we have no visibility over the legislative calendar or the final form thereof. We will revert with updates in this regard following enactment.

ROMANIA

INTELLECTUAL PROPERTY

The following IP can be registered:

Trademarks

What is protectable? Any signs (i.e., word/s, names, drawings, letters, numerals, colours, graphical representations, the shape of a product or its packaging, sounds) distinguishing the goods and services of one company from those of other companies and being represented in a clear and precise manner, can be registered as a trademark. In addition, a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin, may be protected as geographical indication.

Where to apply? To obtain protection in Romania, trademarks must be filed with the (Romanian) State Office for Inventions and Trademarks ("IPO"). The procedure for registration of a Romanian trademark is very similar to the procedure before the European Union Intellectual Property Office ("EUIPO"). The application can be easily filed online at https://fo.osim.ro:8443/sp-ui-tmefiling/wizard.htm?_execution=e1s1 (information available in Romanian only). The IPO examines a Romanian trademark application to ensure that it complies with the registration requirements, but only as regards absolute grounds for refusal, without any prior rights assessment. If interested third parties do not file any observations or oppositions within the legal deadlines, the IPO will issue the certificate of registration. A straightforward application process typically takes around 10 to 12 months. Protection may be also obtained through filing the trademark with the EUIPO (with validity in Romania including) and the World Intellectual Property Organization ("WIPO") under the Madrid System (by designating RO/EM in the trademark application).

Duration of protection? The duration of protection for a Romanian / EU or international trademark is 10 years from the date of application, indefinitely renewable for ten-year periods.

Costs? The IPO fees for a word trademark, filed in relation with one class of goods/services, amount to approx. EUR 200. Additional IPO fees are due for figurative black and white/colour trademarks and if filed for several classes of goods/services. Counsel fees for representation (if case) also apply.

Patents

What is protectable? To be patentable in Romania, an invention must be new, involve an inventive step (i.e., not obvious for a person skilled in the art of the relevant field) and be susceptible of industrial application. An invention may relate to a product or a process.

Where to apply? To obtain protection in Romania, an invention must be registered with the IPO. The Romanian Patent Law requires that inventions created by individuals of Romanian nationality on the territory of Romania must first be filed for protection with the IPO, however no sanction is provided for failure to comply. Protection in Romania can also be obtained and recognized for patents that are filed **(i)** with the European Patent Office ("EPO") and validated in Romania or **(ii)** through WIPO and have entered national phase in Romania. Furthermore, as from 1 September 2024 Romania became the 18th country to participate in the Unified Patent Court ("UPC") following ratification of the UPC Agreement. This means that any Unitary Patents registered on or after this date will also cover Romania.

Duration of protection? The duration of protection for Romanian patents is of 20 years from the date of the application, subject to the payment of annual fees.

Costs? The IPO fees for a patent application amount up to approx. EUR 500. Additional IPO fees may be due, such as for search reports, claiming international priorities, etc. Counsel fees for representation (if case) also apply.

INTELLECTUAL PROPERTY, CONT'D

Patents, CONT'D

Employee invention and inventor bonus? Specific rules govern inventions made by an employee. According to the Romanian special Employee Inventions Law, for inventive mission inventions resulting from the inventor-employee's performance of duties expressly assigned to him/her in the employment agreement and job description, the rights vest with the employer and no additional remuneration / bonus is due. For employment related inventions obtained during the term of the employment agreement or within two years following the termination of such agreement, as the case may be, by knowledge or use of the employer's expertise, by use of the employer's material resources, as a result of the employee's training and development due to the employer's care and on its expense, or by use of information resulting from the employer' activity or made available by it, the employee is entitled to an additional remuneration / bonus, if the employer claimed the invention after the employee's report thereon. Parties may agree that for the development of the invention and the assignment of the rights thereon, the additional remuneration shall be included in the salary paid to the employee.

Utility Models

What is protectable? New technical solutions/innovations can be protected in Romania as utility models. Protection is obtained similarly with that for patents, and the requirement for absolute novelty applies as well, except that the utility models are registered without conducting substantive examination (though a search of prior registered utility models and patents or applications for utility models and patents is provided to the applicant and published in the file of the registered utility model).

Where to apply? For protection in Romania, utility model applications must be filed with the IPO.
Duration of protection? By contrast to patents, the validity of the utility model may not exceed 10 years from the filing date.

Costs? The IPO fees for a utility model registration (including maintenance fees for the first 6 years of protection) amount up to approx. EUR 530. Counsel fees for representation (if case) also apply.

Designs

What is protectable? A product's visual (outer) appearance can by protected by design/models' rights. Copyright protection may also apply (please refer to the next section for details).

Where to apply? Protection may be recognized in Romania through registration as national designs with the IPO. Romania is a party to the Hague System for registering international designs and protection may be also recognized in Romania for Community designs registered with EUIPO.

Duration of protection? The protection period for a Romanian design is of 10 years as of the regular filing date with the possibility of further periods of renewal up to 15 (leading to an overall 25-year protection).

Costs? The IPO fees for a new application for one design (black and white), including maintenance for the first 10 years of protection, amount up to approx. EUR 330. Additional IPO fees may be due for filing and examination of additional designs or representations, designs in colour or for claiming international priority. Counsel fees for representation (if case) also apply.

INTELLECTUAL PROPERTY, CONT'D

The following IP cannot be registered:

Copyright

What is protectable? The Romanian Copyright Law provides for protection of literary, artistic, scientific, or other intellectual creations that are original, irrespective of their value or purpose. The law also provides for protection of the related or neighbouring rights (i.e., rights of performing artists, producers of sound recordings and audiovisual recordings, or broadcasting organizations) and recognizes a sui generis right in favour of the makers of databases. Copyright protection is recognized simultaneously with the creation of the work. No registration and no label are required, as Romania is a party to the Berne Convention for the Protection of Literary and Artistic Works.

Duration of protection? Under the Romanian Copyright Law, moral rights are perpetual, not time barred. Economic rights are protected throughout the author's lifetime and for the following 70 years after the author's death or 70 years after the death of the last surviving author in case of joint authorship. Related/neighbouring rights are protected for 50 years from the date of the interpretation or execution (in case of performers' rights) or the first fixation of the work (in case of producers' rights) or the first broadcasting of the program (in case of broadcasting organizations' rights).

Exploitation of copyright protected work? Under the Romanian Copyright Law, copyright owners have the exclusive right to exploit the work. The owner may grant third parties non-exclusive or exclusive economic rights to use the work, in whole or in part; moral rights cannot be waived nor transferred.

Trade Secrets

What is protectable? Trade secrets are not recognized as intellectual property assets. They are only protected under the Unfair Competition Law, provided that (i) they consist of information that is commercially valuable because it is secret, known only to a limited group of persons, and that (ii) the rightful holder of the information has taken reasonable steps to keep it secret. Companies must therefore act appropriately to prevent unauthorized disclosure (e.g., marking the information as constituting trade secret; implementing IT security measures, particularly access restriction; using confidentiality agreements with business partners and employees).

Duration of protection? Protection shall apply if appropriate measures to keep the information secret are in place and the information has commercial value.

ROMANIA

DATA PROTECTION/PRIVACY

GDPR applies in Romania and the Romanian legislator made limited use of the opening clauses of the GDPR.

The following main Romanian laws are currently applicable and complement the GDPR provisions: Law no. 190/2018 on the measures for implementing the GDPR ("Law no. 190/2018") and Law no. 506/2004 on the processing of personal data and the protection of privacy in the electronic communications sector.

For the purposes hereof, we have only covered few particularities resulting from the domestic legislation implementing the GDPR.

Amongst others, Law no. 190/2018 provides for specific (local) rules on the processing of certain categories of personal data (e.g., genetic, biometric, and health data, national identification number), as well as in connection with processing personal data in the public interest or in the context of employment. For example:

The processing of genetic, biometric or health data for automated decision-making or profiling purposes is permitted with the explicit consent of the data subject or if the processing is carried out pursuant to express legal provisions, implementing appropriate measures to protect the rights, freedoms, and legitimate interests of the data subject.

A data protection officer must be designated, and training should be provided for the individuals involved in the data processing, in addition to what the GDPR expressly requires, when processing the national identification number based on the legitimate interests pursued by the controller or by a third party.

In case of monitoring the workers through electronic means or video surveillance systems based on the legitimate interests pursued by the controller or by a third party, the following is mandatory, in addition to the GDPR requirements: consultation with the trade union or, where appropriate, the employees' representatives before introducing the monitoring systems; there being no other effective less intrusive methods to achieve the purpose; storage period to be no more than 30 days, except in situations expressly provided for by law or in duly justified cases.

The law also provides for certain derogations when processing data (i) for journalistic purposes and for the purposes of academic, artistic, or literary expression or (ii) for the purposes of scientific or historical research, for statistical purposes or for archiving purposes in the public interest.

ARTIFICIAL INTELLIGENCE

Romania has not enacted local AI regulations, and the EU AI Regulation applies.

EMPLOYEES/CONTRACTORS

General: The rules governing the employment relationships in Romania are structured on a four-layer model:

- labour legislation, amongst which Law no. 53/2003 (the „Romanian Labour Code") is the general regulation on the rights and obligations of the employer and of the employees;
- national/industry/group of companies/company-level collective labour agreements;
- employer's internal policies and procedures communicated to the employees (if developed at group level, they could be applicable to the Romanian subsidiary/ies if fully harmonized with the Romanian legislation, drafted in Romanian, and approved by the competent body of the Romanian employer); and
- individual employment agreements (required to observe a minimum content imposed by the law).

Any company having the capacity of employer in Romania must comply with general employment-related requirements (resulting from the Romanian Labour Code and secondary legislation), such as: using the standard template of employment agreement setting forth the minimum mandatory clauses, implementing the general registry of employees, conducting/implementing social dialogue and collective bargaining agreements, ensuring protection of motherhood, taking measures for prevention against and sanctioning of any form of discrimination or harassment (including developing internal policies and procedures to address the respective matters), occupational safety and health, etc.

The employment agreement and associated requirements: The employment relationship is characterized by certain limitations, restrictions and by strict employee protection requirements.

The individual employment agreement must be in writing, be based on the parties' consent, concluded at least in Romanian language, and registered with the General Registry of Employees at the latest on the day before the employee starts working.

The individual employment agreement must comprise the elements provided by the framework model (approved by secondary legislation). Specific clauses negotiated by the parties with the observance of the legal limits/requirements may also be included in the individual employment agreement.

As a rule, the individual employment agreement is concluded for an indefinite term. Fixed-term individual employment agreements could be concluded as an exception and only in the cases expressly provided by the Romanian Labour Code.

By reference to working time, the individual employment agreement can be concluded for full-time or part-time schedules. A full-time individual employment agreement corresponds to 8-working hour per day schedule (with a total of 40 working hours per week), while a part-time individual employment agreement corresponds to a schedule consisting in a number of working hours lower than the number of working hours under a similar full time individual employment agreement.

Work for hire regime: In respect of patents, please refer to section #4 above (section Patents, the case of inventive mission inventions). As regards copyright, the following specific rules apply under the Romanian Copyright Law with respect to works created within the framework of an individual employment agreement: (a) economic copyright in computer programs created by employees, within the scope of their job attributions or at the employer's instructions, vest in the employer, unless otherwise provided in the individual employment agreement; (b) copyright in works other than computer programs (e.g., copyright in logos, trademarks, designs, etc.) remains with the employee, in the absence of a specific and comprehensive assignment clause transferring the rights to the employer; to comply with the Romanian law requirements, such assignment clause should indicate: the patrimonial rights assigned to the employer, their modalities of exploitation, duration, and scope of the assignment, and the remuneration paid to the employee (it can be included in the monthly salary paid to the employee).

Termination: Romanian courts of law are very employee-oriented and implementing a termination is quite a complicated process. The employer may dismiss an employee only on grounds specifically permitted by law, which include gross or repeated misconduct, poor performance, medical incapacity, and redundancy. The employer must give to the employee the statutory minimum notice where the dismissal is on grounds of redundancy, poor performance or medical incapacity, while the employee must give notice of resignation in most circumstances. Any type of dismissal implies specific requirements and procedures to be followed in order to be valid, which may turn out to be burdensome for the employer.

EMPLOYEES/CONTRACTORS, CONT'D

Contractors: Independent contractors may also be hired in Romania, to provide services under independent contractor agreements. There is a risk of reclassification into dependent agents, hence assimilated to employees, with the relevant financial exposure for the employer (in terms of both taxes to be paid and rights to be recognized to the contractors similarly with those recognized to employees), and the obligation to document the reclassified relationship as an employment one.

Platform work: "Platform workers" are expected to benefit from enhanced, employee-like protections with the adoption of the EU Directive on improving working conditions in platform work, which must be transposed by 2 December 2026. The directive applies to work organized through a digital labour platform and performed in the Union under a contract with the platform or an intermediary, regardless of any contract with the service recipient.

CONSUMER PROTECTION

The paragraphs below outline specifics of the Romanian domestic legislation in addition to or in furtherance of the applicable EU legislation.

General Requirements

Per the Government Ordinance no. 21/1992 on consumer protection, consumers need to receive complete, correct, and precise information on the essential characteristics of products and services, to allow consumers to have the possibility of making a rational decision on the products/services offered to them and to be able to use the same in full security, according to their purpose. The scope of the information to be provided to the consumers varies in consideration for the type of entity obligated to provide information, i.e., producer, seller of the product or service provider. All information will be provided to consumers in Romanian language.

Under the Order no. 72/2010 of the President of the National Authority for Consumers' Protection, entities promoting and/or offering their products and/or their services through websites or online platforms are obliged to display on their home page a visible link to the official web address of the National Authority for Consumers Protection (https://anpc.ro).

Per the Government Ordinance no. 38/2015 concerning the alternative dispute resolution between consumers and traders, the latter must display on their website, in a clear, comprehensible, and accessible manner, a link to the appointed entities for alternative dispute resolution in Romania (e.g., https://reclamatiisal.anpc.ro/).

General Rules on Disclosure of Information to the Consumer in E-Commerce

Law no. 365/2002 on e-commerce activities requires electronic service providers to make available to the recipients of the services/products a minimum set of information that is easily, directly, and permanently accessible; this includes identification data of the provider and information on the prices charged by the provider with respect to the products and services offered to the consumer (e.g., including or excluding VAT and the precise tax amount).

In addition, for contracts concluded by the providers with consumers, via electronic means, Law no. 365/2002 sets forth the information that must be made available to the consumers prior to the latter submitting the purchase offer or the acceptance of the provider's binding offer. Such information includes data on the technical steps necessary for the conclusion and execution of contracts, contract language, and whether the provider stores the contracts following conclusion and whether these are accessible to the consumers.

The Government Emergency Ordinance no. 34/2014 regarding the consumers' rights under contracts concluded with professionals (including distance contracts) provides for additional requirements relating with the scope of the information to be provided to the consumers, e.g., payment and delivery means, legal warranties applicable to the sold products, post-sale assistance, if case be.

CONSUMER PROTECTION, CONT'D

Information Regarding Prices

Government Decision no. 947/2000 regarding the means to indicate the prices of products offered to consumers for sale requires that the selling price and unit prices be expressed in local currency, New Romanian Lei (RON). If the sellers also offer information regarding the price in other currencies, it must be clear and easy to understand.

Commercial Practices

Certain sales practices are prohibited under the Romanian law (e.g., sale of a product/the performance of a service subject to the consumer buying an imposed predetermined quantity or to simultaneously purchasing other product or service).

Certain commercial practices are deemed unfair and are also prohibited under the Romanian law (e.g., any practice including false or deceptive information and causing or being likely to induce to the (average) consumers a transactional decision that they would not have otherwise made, relating with, for example, the main characteristics of the product, the existence of a specific price advantage, necessity for servicing, for a separate part, for replacement or repairs).

B2C Contracts

Under Romanian law, a 14-day cool-off period is applicable in respect of distance contracts concluded between consumers and professionals. The consumers are entitled to terminate the contracts for convenience and without incurring any costs other than costs for non-standard delivery (chosen by the consumer) and costs for returning the products if already delivered to the consumers. Certain limitations apply, specifically provided under the Romanian law.

TERMS OF SERVICE

According to Romanian law regarding abusive clauses in contracts concluded between consumers and professionals, certain clauses are deemed abusive and hence invalid, including:

- clauses permitting the professionals to unilaterally amend the contract in the absence of a justified reason provided in the contract;
- clauses permitting the professionals to unilaterally amend the contract clauses, without the consumers' consent, regarding the product or service's characteristics or the delivery deadline (for goods) or the supply period (for services);
- clauses limiting or cancelling the consumer's right to claim indemnification in case of the professional's failure to comply with its contractual obligations;
- clauses limiting the professional's liability per the applicable law for death or bodily injuries to consumers due to a professional's action or omission in connection with the utilization of the goods or services;
- clauses providing that the price shall be determined upon delivery or clauses allowing the professionals to increase the prices without permitting the consumers to terminate the contract.

Other clauses not negotiated with the consumer may be deemed abusive if, either by themselves or along with other clauses, they trigger a significant imbalance between the parties' rights and obligations, which is to the consumer's detriment and contrary to good-faith requirements.

The National Authority for Consumer Protection may file court actions aiming at obliging the professionals to amend all on-going contracts that include an abusive clause and their terms of service.

In addition, the consumers have the right to ask the courts to rule on the nullity of abusive clauses.

TAX/FUNDING

Tax

Corporate income tax (CIT):
From a corporate tax perspective, Romanian companies can fall under (i) the standard corporate tax regime or (ii) the microenterprise regime.

Corporate income tax (CIT): The standard CIT rate in Romania is 16% and applies to Romanian companies, foreign companies with a permanent establishment (PE) in Romania, and foreign companies considered tax residents due to their place of effective management. Resident companies are subject to taxation on their global income unless a double tax treaty (DTT) provides otherwise.

Taxable profit is established as the difference between the taxable revenues - which generally include revenues realized from any source - and the deductible expenses. As a rule, expenses incurred for business purposes are tax deductible. Certain deductibility limitations apply for specific expenses (e.g., interest, sponsorships, services not backed up with sufficient documentation, etc.), while other expenses are specifically excluded from deduction (such as shareholder costs). Annual tax losses can be carried forward and offset against taxable profits up to 70% over the next 5 years.

The microenterprise regime: A Romanian legal entity with a turnover at 31 December of the precedent tax year of less than EUR 250,000 (for 2025) / less EUR 100,000 starting 1 January 2026 can opt for the application of micro-enterprise revenue tax in lieu of the standard CIT, and means that the company is liable to pay.

- 1% tax on its total turnover.

The microenterprise regime does not allow deduction of expenses. Microenterprise tax must be reported and paid quarterly.

R&D deduction and tax exemption: R&D tax incentives include an additional deduction of 50% for eligible expenses, as well as applicability of the accelerated depreciation for equipment. These incentives apply to qualifying R&D activities (applied research and/or experimental development as defined by law) conducted in the EU/EEA and are granted separately for each project. Deductions remain valid even if project goals are not achieved.

Businesses conducting only R&D and related activities are exempt from CIT for their first 10 years, provided they comply with state aid regulations.

Reinvested profit exemption: The profit reinvested in technological equipment assets that are used for production, processing, and refurbishment, as well as in electronic computers, peripheral devices, cash registers, machinery, control and invoicing equipment, and software—whether produced or acquired, including through financial leasing contracts—and put into use for economic activities, is tax-exempt, subject to certain conditions provided by the law.

Dividend tax: The dividend tax rate for distributions between Romanian legal entities is 16%. However, if a shareholder holds at least 10% of the shares for a continuous period of at least one year, the tax is exempt.

TAX/FUNDING, CONT'D

Tax, CONT'D

Corporate income tax (CIT), CONT'D:

Withholding tax: All income earned by non-residents from Romanian taxpayers for services provided in Romania, as well as for management and consultancy services is subject to a 16% withholding tax (WHT) in Romania.

Non-resident companies without a permanent establishment (PE) are subject to a 16% WHT on income sourced in Romania, including interest, royalties, service revenue, commissions, and income from the liquidation of a Romanian legal entity.

The WHT tax rate on dividend income received by non-residents from Romania is 16%. However, if the recipient has held at least 10% of the Romanian entity's share capital for an uninterrupted period of at least one year, ending on the dividend payment date, the tax is exempt.

Interest and royalty payments made by a Romanian company to an EU-based company are exempt from tax if the non-resident company has continuously held at least 25% of the Romanian company's share capital for at least two years prior to the payment date.

Based on the DTTs Romania has concluded with other countries, non-residents may benefit from reduced tax rates or exemptions, provided certain conditions are met (e.g., submitting a tax residency certificate).

Value added tax (VAT):

Romanian VAT applies to all taxable operations conducted in Romania.

VAT Registration:

- Mandatory if a company's VAT-taxable turnover exceeds RON395,000 annually (approx. EUR80,000).
- Optional for businesses with VAT-taxable transactions below this threshold.

Non-Resident Transactions: If a non-resident performs a B2B supply subject to VAT in Romania, the VAT liability shifts to the Romanian client under the reverse-charge mechanism (recorded as both input and output VAT, making it tax-neutral).

VAT Deduction: A company is entitled to deduct the input VAT incurred on the acquisitions of goods and services performed with a view of rendering operations subject to the VAT deduction right.

The VAT deduction right can be exercised if the buyer holds an original valid invoice issued by the supplier, (for domestic supplies, this is represented by the RO e-Factura file), or the customs import declaration for imports.

VAT Rates:

- Standard Rate (21%) – Applies to all goods and services (including imports) unless they qualify for an exemption or a reduced rate.
- Reduced Rate: 11% – for example, it applies to supplies of human medicine, supplies of food and beverages (exceptions apply for those containing alcohol and sugar), etc.

VAT Exemptions: The VAT exemptions without deduction right are mandatory and are applicable for a series of social oriented economic activities (such as education, health, etc.), as well as for: financial services, insurance, sale and lease of real estate.

The VAT exemptions with deduction right apply for a series of transactions involving intra-EU trade with goods and exports of goods, international traffic of goods or services, as well as other special situations and are conditioned by the necessary proof required specifically by law.

TAX/FUNDING, CONT'D

Tax, CONT'D

Value added tax (VAT), CONT'D:

Other VAT free transactions are the supply of goods and services not having the place of taxation in Romania (e.g. supply of general services to non-residents or supplies of goods not located in Romania, etc.) or transfer of businesses or parts thereof.

VAT Reporting: The main mandatory VAT statements to be submitted in Romania are as follows:

1. monthly VAT return – to be submitted until the 25th day of the following month if the annual turnover of VAT-able transactions exceeds EUR 100,000 or in case intra-Community acquisitions of goods are performed; otherwise, the VAT return must be submitted (and the VAT liability paid) on a quarterly basis, by the 25th of the month following the last month of the preceding quarter;
2. monthly EC sales and acquisitions list – to be submitted until the 25th day of the following month;
3. local sales and acquisition list – to be submitted by the 30th day of the following month;
4. monthly Intrastat Statement – to be submitted by the 15th day of the following month, for physical movement of goods between Member States;
5. Monthly SAF-T reporting - to be submitted by the last day of the following month covering all activity of the taxpayer (exceptions apply for the fixed assets and stock modules and limited reporting is in place for non-residents having only a VAT number in Romania);
6. RO e-Factura: the following invoices for supplies taking place in Romania must go through the Romanian public e-invoicing system:
   a. all invoices for B2B sales between Romanian established taxable persons;
   b. all invoices for B2B sales to and from non-established taxable persons VAT registered;
   c. all invoices for B2C sales performed by Romanian established taxable persons;
   d. all invoices for B2G sales performed by Romanian established taxable persons. The fines for non-compliance are significant, can go up to 15% of the value of the invoice.
7. RO e-Transport: all intra-EU trade with goods, all imports and exports of goods and the domestic transport of high-risk goods must be reported in the RO e-Transport system before the transport takes place. The fines for non-compliance are significant, i.e. can go up to 100% of the value of the goods.

Funding

Funding for start-ups may become available under specific grant schemes set up by the Romanian authorities from time to time. Such grants generally follow the principle of reimbursement of eligible expenses. Since accessing these grants entails certain administrative burdens (e.g., implementing strict procurement rules), it is advisable for entrepreneurs/start-ups to engage consultants that will support throughout the process.

To secure funding from private equity investors and business angels, entrepreneurs/start-ups may benefit from joining Romanian business communities that serve as key facilitators in bridging the gap between emerging ventures and potential investors.

WHAT ELSE?

Corporate Seat
Romanian companies must have an address prior to registration with the Romanian Trade Registry; for this purpose, a physical office space is necessary (virtual addresses of P.O. box type are not permitted for registered office purposes). The premises may be owned or (sub)leased, a Regus-type office address being acceptable as registered office.

Official Language
Romanian is the only official language of the country. Consequently: (i) any interaction between individuals/legal entities and Romanian authorities (courts included) must be in the Romanian language; and (ii) the public authorities must draft their official acts in the Romanian language. In case of providing the Romanian authorities with documents in other languages, sworn translations thereof into Romanian language are needed. Particularly, we note that, since the private sector often uses and accepts English as business language, to the extent public authorities (e.g., tax authorities) need to scrutinize legal documents drafted in English, the translation thereof into Romanian must be available.

Lobbying
Lobbying is not recognized nor regulated under Romanian law. Governmental affairs activities are or could be deemed to meet the characteristics of certain criminal (corruption) offenses.

Consequently, as much as communication between the public and the private sectors is needed, interaction upon the initiative of an individual company as well as communication during audits conducted by various authorities require careful tailoring and implementation to avoid exposure to administrative or even criminal liability. It is of essence that interaction with the public institutions and public officials be unequivocal, confined to clear rules, and, where possible, documented.



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RUSSIA

LEGAL FOUNDATIONS

The Russian Federation has a civil law system. The sources of law in the Russian Federation include (i) the Constitution of the Russian Federation; (ii) the Federal Constitutional laws; (iii) the Federal laws; (iv) the Presidential decrees and orders; (v) the decrees and orders of the Government of the Russian Federation; (vi) the laws of the constituent entities of the Russian Federation; (vii) the acts of local authorities, as well as (viii) the international conventions and treaties (in case of due ratification).

The Constitution of the Russian Federation has supreme legal force and direct effect applied throughout the whole territory of the Russian Federation. The rules of international treaties shall not apply if their interpretation contradicts the Constitution.

The principal source of law in Russia is legislation, which includes primarily codified laws (e.g., the Civil Code, the Tax Code etc.) and other laws (e.g., the Federal Law on JSC, the Federal Law on LLC, the Federal Law on Protection of Competition etc.).

Unlike the common law system, the case law does not play such a major role; however, the Supreme Court is authorized to analyze existing case law and issue binding guidelines for the lower courts, i.e. acts of official interpretation. Moreover, the judicial act of a lower court could be set aside or modified by the Supreme Court if it is rendered in violation of uniform judicial application or interpretation of law.

As for the jurisdictional layers, there are two levels – federal and regional. Spheres of competence are divided between federal and regional authorities, which therefore have the capacity to enact legislation within the limits of their jurisdiction. In that respect, it is important to note that almost all aspects that concern the matters of tax, civil, administrative, customs, criminal and other fundamental spheres of law belong to federal competence.

CORPORATE STRUCTURES

There are different ways for foreign investors to start doing business in Russia: (i) to establish Russian legal entity; (ii) to acquire participatory interest/shares in an existing Russian entity; (iii) to be registered as an individual entrepreneur; (iv) to establish representative offices or branches of foreign legal entities; (v) to incorporate a JV with a business partner; (vi) to create an investment partnership; (vii) to incorporate a subsidiary.

Below we considered the most common legal structures primarily used for starting business in Russia:

Individual Entrepreneur

An individual entrepreneur is a natural person who is registered to do business without forming a legal entity. To be registered as an individual entrepreneur, a foreign citizen shall obtain a temporary residence permit / permanent residence permit. This form of doing business is used in case the person is planning to run a small business, that does not require many people and large capitalization (e.g., opening a family restaurant or a small shop). On the one side, this form of doing business has lots of related advantages: (i) simplified registration procedure; (ii) lower state fees and (iii) smaller taxes. On the other side, an individual entrepreneur is not able to conduct several types of licensed activities that are available to legal entities, as well as the individual entrepreneur has unlimited liability with respect to its own property.

A foreign citizen (including citizen from "unfriendly" jurisdiction) who has a temporary residence permit/permanent residence permit may also become an individual entrepreneur in the Russian Federation.

Legal Entities

Under Russian law, there are different types of legal entities (both commercial and non-commercial). For the purposes of doing business, the following are the most popular:

Joint Stock Company
Joint Stock Company (JSC) is a business entity with share capital divided into "shares" which are subject to the Russian securities laws. The maintenance and keeping of the shareholders' register of the JSC shall be delegated to a licensed registrar. There are two types of JSCs: (i) public joint stock company with shares publicly traded (PJSC); and (ii) non-public joint stock companies with shares not publicly issued/traded or issued to a limited group of persons (NPJSC). Unlike the latter, PJSCs are subject to stricter regulation in terms of (i) disclosure of information, (ii) reporting, (iii) corporate governance rules, etc.

PJSC is usually used for large corporations with significant number of shareholders (e.g., banks, insurance companies, industrial and other large-scale enterprises), while NPJSCs are usually used for private equity, joint ventures, intragroup structures and other types of projects with a closed structure of shareholders.

The JSC shares are issued in a non-documentary form and since January 2021 the NPJSC shares can also be issued in the form of digital financial assets.

Limited Liability Company
Limited liability company (LLC) is a business entity whose share capital is divided into "participatory interest(s)" which fall outside of the scope of Russian securities laws. Nowadays, LLC is the most popular form of business in Russia with more flexible corporate governance rules, more simplified incorporation rules, easier financing methods and lesser formalities, in certain aspects, than JSCs, but, unlike JSCs, with a public register of shareholders.

However, a company with a foreign founder has fewer opportunities to conduct commercial activities. By law, it cannot engage in certain types of business or take advantage of preferential tax regimes.

CORPORATE STRUCTURES, CONT'D

Not legal Entities

Investment partnership
The investment partnership acts on the basis of an investment partnership agreement where two or more persons (partners) undertake to pool their assets and carry out joint investment activity in order to make profit without incorporation of a legal entity. Such investment partnership agreement shall be notarized.

Parties to investment partnership can include Russian or foreign (i) non-commercial entities (for specific purposes) and (ii) commercial entities. Natural persons are not allowed to enter into investment partnership agreement.

All participants in investment partnerships are divided into two groups depending on the degree of participation in the management of the partnership's affairs: (i) managing partners (one or several) which are responsible for making decisions and are liable for its obligations with all their property; and (ii) partners-investors which are not directly involved in the management of the partnership, and are liable for the obligations of the partnership to the extent of their contribution.

This form of investment activity has tax benefits and is often used by investors in the venture capital industry.

Branches and Representative Offices
Neither Branch nor Representative Office is considered as a legal entity under the Russian law, but rather a body representing the interests of a foreign legal entity in Russia. The functions of a Representative Office are limited to representing the interests of the parent foreign company in Russia. A Branch, unlike a Representative Office, has more extensive powers, so it may fulfill all or part of the functions of its foreign founder, including the functions of a representative office.

Branches as well as Representative offices shall be properly accredited by the Federal Tax Service. However, Representative offices of certain foreign companies – depending on their businesses – are accredited by other authorities (for example, representative offices of foreign banks are accredited by the Central Bank of Russia).

The establishment of Branches or Representative Offices increases the mobility of a foreign company, reduces costs, and consequently leads to higher profits.

RUSSIA

ENTERING THE COUNTRY

Currently, there is a number of requirements for regulatory clearances of transactions in Russia.

Merger control approval

Merger control approval may be triggered in case of acquisition of over 25% of shares/ over 1/3 of participatory interest in a Russian target, if the financial thresholds are met.

Also, indirect acquisition of the rights to determine terms of business or indirect acquisition of over 50% in a Russian target (or in a foreign company (companies) supplying to Russia in excess of RUB 1 billion for the year preceding the transaction's closing) will be caught provided the filing thresholds are met. Separately, acquisition of fixed and intangible assets located in Russia may require merger control clearance under certain circumstances. Joint ventures in the territory of Russia between competitors could also be subject to merger control clearance. Mergers between Russian companies and creation of a Russian company (if it is contributed with either of the above) may also fall under the merger control requirements.

Financial thresholds are:

- the worldwide aggregate group value of assets of the acquirer and the target according to the latest accounts exceeds RUB 7 billion or their aggregate worldwide turnover in the last calendar year exceeds RUB 10 billion; AND herewith
- the worldwide group value of assets of the target (but without the seller's assets if it loses control as a result of the transaction) according to the latest accounts exceeds RUB 800 million; OR
- If a transaction's price exceeds RUB 7 billion (this is an alternative threshold if the above-mentioned conditions are not met, for example).

FDI approval

The FDI clearance (national security review) applies to foreign investors, which acquire shares/assets/indirect control over Russian companies, which exercise at least one of the 51 statutory activities having strategic importance for the Russian national security.

Under certain circumstances the thresholds may be very low (e.g., 25% or even 5%). Therefore, it is important to analyze the transaction in detail if it is established that a Russian "strategic" company may be in its perimeter.

Also, additional requirements may apply (pre-transaction UBO disclosure, post-transaction notification). Other actions, such as obtainment of a regulatory "strategic" license by a Russian company under control of a foreign investor, or obtainment of a foreign citizenship/residence permit by a Russian national, who controls a "strategic" company, may also be caught.

Separately, if an acquirer is under control of a foreign state (international organization), acquisition of over 25% of voting shares (rights) in any Russian company (or of the blocking rights) may be the subject to the separate FDI filing.

Counter-sanctions approvals

In 2022 various counter-sanctions approval procedures were introduced in the Russian law which potentially target majority of transactions with foreign investors from "unfriendly" jurisdictions. A list of "unfriendly" jurisdictions was adopted by the Russian Government and includes such countries as the United Kingdom, member states of the European Union, Canada, the USA, Japan, Switzerland, Norway, etc. A company will have the status of being "unfriendly" even if it is from the "friendly" jurisdiction or from Russia, but it is ultimately controlled by an "unfriendly" company.

ENTERING THE COUNTRY, CONT'D

Counter-sanctions approvals, CONT'D

If an "unfriendly" company is a party to a transaction with Russian JSC or Russian LLC, then the regulatory clearance from the special Government Commission must be received prior to closing. Separately if an "unfriendly" company is a party to a transaction, and a Russian resident is another party thereto, where the subject matter of the transaction is securities, an approval may be necessary regardless of whether these are securities of a Russian or a foreign target.

Some transactions may require an approval from the Russian President rather than the Government Commission (there is a separate list/criteria for this).

Also, there are restrictions on the payment of dividends from Russian companies to their shareholders from the "unfriendly" jurisdictions. Such dividends may either be paid using the special C-type account (with very limited operations possible) or should not exceed RUB 10 million monthly along with the repayment of other debts to "unfriendly" counterparties (e.g., repayments of loans are under the same restrictions). However, an approval from the Government Commission/Central Bank may be received for the payment of dividends/repayments of loans without these restrictions.

The Government Commission recommends several criteria, the fulfilment of which is essential, as approval is unlikely to be granted otherwise (although we understand that exceptions on a case-by-case basis are also possible and the list of conditions is under constant review). These criteria include:

- obtaining an independent appraisal of the asset's fair market value with an expert opinion/report prepared by an expert or experts from a self-regulating organization of appraisers certifying the appraisal report;
- a purchase price set with a discount - at least 60% below the appraisal value;
- establishing key performance indicators (KPIs) for at least three years for the new owner of the asset;
- voluntarily transferring at least 35% of the asset's valuation to the federal budget;
- all other regulatory consents have been received;
- if the target is a public company, or there is an option agreement for shares buyback, additional conditions may be imposed.

The criteria for approval of the payment of dividends to "unfriendly" shareholders are the following:

- the distributable amount is not more than 50% of the net profit for the previous year;
- retrospective analysis of the dividend payments for the previous periods is taken into account;
- the foreign owners of the company intend to continue their commercial activities in Russia;
- views of the Russian regulatory authorities and of the Central Bank are taken into account on the assessment of the significance of the company's operations and the impact of its activities on the technological and production sovereignty of Russia and the Russian social and economic development;
- fulfilment of key performance indicators (KPIs), to which there has been a commitment, where such fulfillment is confirmed by the relevant regulatory authorities;
- dividends can be paid on a quarterly basis provided that the company fulfils the set key performance indicators (KPIs);
- OR, as an alternative condition, "unfriendly" shareholders made investments into Russian economy, including aimed at the widening of production volumes in Russia, or development of new technologies. In this case the distribution of dividends may be permitted in the amount not exceeding the amount of these investments.

ENTERING THE COUNTRY, CONT'D

The Government Commission issued the guidelines clarifying what factors it would consider when deciding to grant the approval for transactions aimed at sale by "unfriendly" persons of their Russian companies. The following criteria should generally be met (although we understand that exceptions on a case-by-case basis are also possible and the list of conditions is under constant review):

- an independent appraisal report regarding the fair market value of assets to be sold prepared by a professional Russian independent appraiser from the recommended list is attached to the application stating the value of assets transferred;
- an expert opinion from an expert being the member of a self-regulatory organization of appraisers is attached to the report;
- the sale price of assets transferred represents at least a 50% discount to the fair market value indicated in the independent appraisal report prepared by a professional Russian independent appraiser;
- key performance indicators (KPI) for the acquirer/target with respect to the business to be purchased are established;
- settlements are to be made either in RUB in Russia, to special C-type account opened in favor of a company from "unfriendly" jurisdiction, or a deferred payment condition is introduced if payment is to be made outside Russia;
- an obligation is undertaken to voluntarily transfer to the federal budget funds in the amount of at least 15% of the fair market value of assets;
- all other regulatory consents have been received;
- if a target if a public company, or there is an option agreement for shares buyback, some other conditions may be imposed.

The criteria for approval of the payment of dividends to "unfriendly" parents are the following:

- the distributable amount is not more than 50% of the net profit for the previous year;
- retrospective analysis of the dividend payments for the previous periods is taken into account;
- the foreign owners of the company intend to continue their commercial activities in Russia;
- views of the Russian regulatory authorities and of the Central Bank are taken into account on the assessment of the significance of the company's operations and the impact of its activities on the technological and production sovereignty of Russia and the Russian social and economic development;
- fulfillment of key performance indicators (KPI), to which there have been a commitment, where such fulfillment is confirmed by the relevant regulatory authorities;
- dividends can be paid on a quarterly basis provided that the company fulfills the set key performance indicators;
- OR, as an alternative condition, an "unfriendly" parent/shareholder made investments into Russian economy, including aimed at the widening of production volumes in Russia, or development of new technologies. In this case the distribution of dividends may be permitted in the amount not exceeding the amount of these investments.

RUSSIA

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STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

In the Russian Federation the following IP rights can be registered:

Trademarks

- **What is protectable?** It could be a word, design, 3D design or combination of these. It could also be a sound, a scent, a color or moving holograms etc. Almost anything can be applied as a trademark if it is able to indicates the goods and services from the others on the market.
- **Where to apply?** Trademarks can be filed either with (i) the Federal Service for Intellectual Property (Rospatent) or (ii) the World Intellectual Property Organization (WIPO) under the Madrid System. Registering a trademark is a complex procedure in Russia that involves the application moving through two main stages: a formal examination and a substantive one. There is no opposition procedure in Russia. However, the law allows third parties to file written observations against a pending application that should be considered by the examination of Rospatent.
- **Duration of protection?** The trademark registration remains valid for a ten-years-period and it may be renewed an unlimited number of times.
- **Costs?** The cost of trademark registration in Russia depends on the number of classes of the Nice Classification for which registration is requested, as well as the number of names of products/services within one class. For example, application official costs for a Russian trademark for one class amount approx. EUR 380 in total for all procedure stages plus EUR 5 for each additional name of product/service over 10 within one class.

Patent

The objects of patent rights in Russia are inventions, utility models and industrial designs.

Invention

- **What is protectable?** A technical solution in any field relating to a product or a process, including the use of the product or process for a certain purpose, is protected as an invention in Russia. An invention is granted legal protection if it is new, involves an inventive step, and is industrially applicable. It is also planned to expand patent protection to digital algorithms and technologies used in AI, industry, transport and other areas, a corresponding bill is being considered.
- **Where to apply?** Patent applications can be filed with (i) Rospatent or (ii) WIPO under the PCT system or (iii) the Eurasian Patent organization (EAPO). The term for entering the Russian national phase of a PCT application is 31 months from the priority date. The term for filing a conventional patent application in Russia is 12 months from the priority date. An application for a patent can be filed within 1 year from the date of disclosure of information about the invention.
- **Duration of protection?** The term of protection is, in any case, a maximum of 20 years from the application and must be maintained by payment of the annual fees.
- **Costs?** The application official fees for a Russian patent claiming one independent claim amount approx. EUR 280. Any fees are subject to verification before filing.

Utility Model

- **What is protectable?** Utility models are quite similar with inventions, but unlike patent they do not require an inventive step. Particularly a utility model in Russia is granted legal protection if it is new and industrially applicable.
- **Where to apply?** Applications for utility models can be filed with the Federal Service for Intellectual Property (Rospatent). In Russia, it is also possible to enter the national phase of a PCT application as a utility model. The procedure of the national phase entry is the same as for patents.
- **Duration of protection?** The term of protection is only 10 years, also requires payment of the annuities.
- **Costs?** Application costs for Russian utility model amount approx. EUR 150. Any fees are subject to verification before filing.

INTELLECTUAL PROPERTY

Patent, CONT'D

Industrial Designs

- **What is protectable?** An industrial design is granted for the artistic and design solution of a factory or handicraft-made article which determines the appearance of such article. An industrial design is granted legal protection if it is new and original by its essential features.
- **Where to apply?** Russian designs may be registered with (i) the Federal Service for Intellectual Property (Rospatent) or (ii) the Eurasian Patent organization (EAPO). Russia is also a party to the Hague System for registering international designs, thus applications may also be filed through WIPO.
- **Duration of protection?** The term of protection is five years and it can be renewed five times for another five years-period by paying the renewal fee. The maximum term of protection is limited by 25 years.
- **Costs?** Official costs for an industrial design application amount EUR 150. Any fees are subject to verification before filing.

Copyright

- **What is protectable?** The objects of copyright are works of science, literature and art, regardless of the merits and purpose of the work, and regardless of how it is expressed. The objects of copyright also include computer programs, which are protected as literary works in Russia. Copyright as well as related rights do not require any registration under the Russian law and enjoy protection by virtue of the mere fact of its creation.
- **Where to apply?** No registration of work or any other formality is required for the emergence and protection of copyright in Russia. Still a voluntary registration system of software and databases is available for rightsholders in Russia. The Federal Service for Intellectual Property (Rospatent) performs such registration. In order to have the rights recognised, the author may also register the copyright by depositing its work with the organisations involved in the collective management of copyright and related rights in Russia. Such registrations prove the existence of the software, database or any other artistic work in an objective form at a certain date which may be quite important in case of a dispute.
- **Duration of protection?** Copyright protection lasts for the life of the author plus 70 years.
- **Costs?** The state fee for registration of a copyright for a software or a database with Rospatent amount approx. EUR 50. Various other fees may also be required during the copyright application process depending on the registration authority. Any fees are subject to verification before filing.

The following IP rights cannot be registered:

Trade Secrets (Know How)

- **What is protected?** Trade secrets include any business, professional information that has commercial value as long as it remains unknown to third parties. The owner of the trade secret must take active measures to protect the secrecy and ensure that there is no free access to it by third parties.
- **Duration of protection?** Trade secrets protection can last as long as the information actually remains a secret.
- **How to keep trade secrets secret?** It is necessary to define a list of information that constitutes a trade secret, establish a procedure for handling this information and monitor the access to it to keep it confidential.

Counter-sanctions regulation

Licensing: counter-sanctions regime of making payments was established by the Presidential Decree No. 322 dated May 27, 2022. Under its provisions the Russian residents shall pay in Rubles to a Special O-type account for their use of IP, the exclusive rights to which belong to the following categories of right holders, which:

- are foreign persons connected with "un-friendly" states (excluding of right holders which duly fulfills their obligations under IP-related agreements concluded with Russian counterparties);
- supported economic or political sanctions against Russia, its citizens, or legal entities;
- prohibited or established the ban on the use of their IP in Russia or stopped, suspended, or significantly limited the production (supply) of goods after February 23, 2022, due reasons not related to economic feasibility;
- committed public actions aimed at dis-crediting the use of the Russian army.

INTELLECTUAL PROPERTY, CONT'D

Counter-sanctions regulation, CONT'D

However, the right holders, the debtors are entitled to apply to the Government Commission for permission to transfer funds from the Special O-type account to the other account of the right holder. Also, if the right holder does not give written consent to making a payment to the Special O-type account, the debtor has the right not to make payments until such consent is received.

Transfer of ownership: Since 20 May 2024, on the basis of Decree of the President of the Russian Federation No. 430, a temporary restrictive procedure has been introduced for the acquisition by Russian residents of exclusive rights to the results of intellectual activity and means of individualization from "unfriendly" foreign right holders.

The execution and fulfilment of monetary obligations under such transactions are subject to the approval of the Government Commission.

Payments under such transactions must be transferred to the Special O-type account. Subsequent transfer of funds to the bank accounts of the right holders is subject to the permission of the Government Commission.

The temporary procedure does not apply to the transactions:

- for the acquisition of exclusive rights to scientific, literary and artistic works, performances, phonograms, broadcasts or cable broadcasts;
- where the amount of the acquirer's obligations does not exceed 15 million roubles or the equivalent amount in foreign currency.

DATA PROTECTION/PRIVACY

Legal acts

Data protection in Russia is governed by the Constitution, which establishes the right to privacy, and other federal laws. The Federal Law of the Russian Federation on Personal Data (the "**Law on Personal Data**") is a comprehensive data protection law that governs the processing of personal data. Provisions of the Labor Code contain additional requirements regarding the processing of employee personal data. The Russian Federation is also a party to the Convention for the Protection of Individuals with regard to Automated Processing of Personal Data No. 108 (the "**Convention No. 108**").

Scope of the law

The Law on Personal Data regulates the relationships relating to the processing of personal data by automatic means, or without such means, if the processing of personal data without the use of such means corresponds to the character of the operations as involving the personal data by automatic means.

The Law on Personal Data applies to entities having physical presence in Russia and processing personal data there and also applies to foreign entities and individuals if they process personal data of Russian data subjects based on the agreement with such data subjects or relying on their consent for personal data processing.

The Law on Personal Data requires data controllers to register with the Roskomnadzor by submitting a notification, which must meet specified requirements.

Data processing principles

The Law on Personal Data sets four general principles for processing personal data, such as:

- The processing must be lawful and fair;
- The processing must be limited to specific and lawful predetermined purposes;
- The processing must be consistent with the purposes for which the personal data was collected, merging databases containing personal data that was processed for different (incompatible) purposes is prohibited;
- Personal data may be stored as long as necessary to accomplish the stated purposes for the processing, etc.

DATA PROTECTION/PRIVACY, CONT'D

Legal basis for data processing

Generally, organizations must obtain prior express consent from the data subject to process personal data. The individual's consent must be "specific, substantive, informed, conscientious and unambiguous" and may be given by an individual through his or her representative. Consent must be issued separately from other documents signed or conformed by a data subject.

Individual consent is not required if personal data processing is conducted for the following primary purposes:

- to comply with Russian laws or international agreements or the operator's legal obligations;
- to conclude or fulfill a contract to which the data subject is a party, beneficiary, or guarantor;
- for statistical or other scientific purposes, provided that the personal data has been anonymized, and will not be used for marketing or political campaigning;
- to protect the life, health, or other vital interests of a data subject, if it is impossible to obtain the relevant individual's consent;
- to exercise rights and protect the lawful interests of a data controller or third parties; or
- to attain socially important goals.

Sensitive personal data and biometric personal data may be processed only with the written consent of the relevant data subject or under certain limited circumstances set by law.

Data subject's rights

The key right granted to individuals is the right to withhold consent to process their personal data. The Law on Personal Data also provides individuals with extensive rights to access their personal data. This inter alia includes the right to obtain:

- confirmation that a data controller is processing the individual's personal data and the purpose for the processing;
- information on the legal basis for the processing and a data controller's processing methods;
- information on persons who may have access to the personal data, etc.

Obligations of data controllers

The Law on Personal Data requires data controllers to take or ensure legal, organizational, and technical measures necessary to protect personal data against unauthorized or accidental processing.

Data localization

When collecting personal data, it's prohibited to use databases located outside of Russia for recording, systematization, accumulation, storage, adaptation/alteration, and retrieval of collected personal data. This is the so-called localization requirement. The requirement applies when collecting personal data directly from a data subject.

Data breach

If the data breach leads to a violation of a data subject's rights, a data controller must notify the Russian DPA ("Roskomnadzor"):

- within 24 hours of the time of discovery - and report in the notification the alleged causes of the data breach and harm to data subjects' rights, the measures taken to eliminate the consequences of the data breach, and the person authorized by the operator to interact with the Roskomnadzor on the issues related to the data breach, and
- within 72 hours from the time of discovery - and report in the notification the results of the internal investigation of the data breach and the identity of the individuals who caused the data breach (if any).

However, there is no obligation to notify a data subject in case of data breach.

DATA PROTECTION/PRIVACY, CONT'D

Cross-border data transfer

The Law on Personal Data contains restrictions on transferring personal data outside of the Russian Federation. Data controllers are only allowed to transfer personal data outside of Russia after providing notification to Roskomnadzor which must be submitted before they commence cross-border transfers. Roskomnadzor has 10 business days to consider the request.

If the country of destination provides adequate level of data subjects rights' protection, a data controller may transfer data even if its notification is still under the consideration of the regulator (until Roskomnadzor makes a decision to prohibit or restrict the cross-border transfer). In other situations, a data controller is prohibited from conducting the transfer until such notification is considered by the regulator and the respective regulatory permission is obtained (or otherwise 10 business days period for consideration is expired).

Cross-border transfers also may be restricted or banned by Roskomnadzor if required by a competent authority, depending on the purpose of the restriction or ban – e.g., to ensure national defense and state security, protection of the economic and financial interests of the Russian Federation, etc.

ARTIFICIAL INTELLIGENCE

There is no specific regulation on AI in Russia at the moment. The basic principles on use and development of AI are provided by the Presidential Decree No. 490 "On the development of artificial intelligence in the Russian Federation", which established the national strategy for of AI development in Russia for the period until 2030. According to the Decree, AI is a set of technological solutions that allows imitating human cognitive functions (including self-learning and search for solutions without a predetermined algorithm) and obtaining results comparable, at least, to the results of human intellectual activity. The set of technological solutions includes information and communication infrastructure, software (including that which uses machine learning methods), processes and services for data processing and solution search.

The Decree establishes fundamental principles for the development and use of artificial intelligence, including:

- protection of human rights and freedoms;
- safety, inadmissibility of using AI for intentional harm;
- transparency, explainability of AI work and the process of achieving its results, access for users of products to the AI algorithms used in these products.

AI is recognized as software, which means that AI does not have a legal personality and, among other things, does not acquire rights to the results of its activities (they are presumed to be owned by the developer / the owner). All responsibility for the use of AI lies with the AI developer / the owner.

Furthermore, there is the Federal Law No. 258-FZ "On Experimental Legal Regimes in the Sphere of Digital Innovation". The law allows companies to use AI technologies in the regulatory "sandbox" if the company's technology is included in the government's list.
Also the law provides for a mandatory insurance of AI regulatory sandbox companies for damage to the life, health or property of others as a result of the use of AI.

At the moment there are 14 active regulatory sandboxes on using AI in the following spheres:

- Medicine;
- Production and operation of unmanned vehicles and certification of their operators;
- Provision of state and municipal services, financial market;
- Industrial production and agriculture;
- Construction, overhaul and reconstruction.

ARTIFICIAL INTELLIGENCE, CONT'D

In 2026 the Russian Government provided information about developing a framework bill on the regulation of AI. The bill is aimed at resolving the contradictions of AI regulation and forming a unified approach. It is planned to develop a conceptual framework and solve the main regulatory issues (who is responsible for the AI error, who owns the copyright, etc.). The issue of labeling AI content will also be resolved. At the moment, there is no such requirement in Russian regulation.

It is also planned to create an operational headquarters for the accelerated implementation of AI. The headquarters will be engaged in ensuring the implementation of policy in the field of AI and solving issues related to the introduction of AI in the economy and public administration.

EMPLOYEES/CONTRACTORS

Employment Relations

Under Russian law, employment relationships arise when an individual provides labor in the interests of an employer under its direction and control. A foreign entity without a registered presence in Russia cannot directly employ staff and must operate through a local legal entity, a branch, or a representative office.

A written employment contract must be signed within three business days of work commencement, in Russian or bilingual format (with Russian prevailing). The employment contract must include mandatory statutory provisions such as the employee's job title and description, remuneration terms (including salary and bonuses), working hours, probation period (if applicable), social security contributions, and details on annual leave entitlements and termination conditions, ensuring full compliance with Russian labor law. Deviations from statutory minimums are not permitted. For example, vacation entitlement cannot be reduced below the statutory minimum of 28 calendar days, and probation periods cannot exceed three months for most employees (six months for senior executives and certain other categories as per Russian labor law).

Employment contracts are generally concluded for an indefinite term. Fixed-term contracts are allowed only in legally specified cases (e.g., seasonal work, project-based roles), with a maximum duration of five years. Failure to justify the term's limitation may result in automatic reclassification as an indefinite-term contract.

Employee Rights and Obligations

Employees are entitled to timely salary payments (at least at the statutory minimum wage), occupational health and safety, social security benefits, and statutory leave. Employers must provide adequate working conditions, ensure compliance with labor laws, and withhold and remit payroll taxes.

Minimum Wage

As of January 1, 2026, the federal minimum wage in Russia is set at 27,093 rubles per month. Employers must also comply with regional minimum wage rates, which may exceed the federal level.

For instance, as of 2026, the minimum wage in Moscow is 39,730 rubles per month, while in St. Petersburg it is set at 31,250 rubles per month.

Remote Work

Russian labor law recognizes various forms of remote work, including permanent, temporary (up to six months), and hybrid models. However, remote work performed from abroad remains largely unregulated and is generally considered non-compliant with Russian employment laws.

EMPLOYEES/CONTRACTORS, CONT'D

Work-for-Hire Regime

By default, intellectual property created by an employee in the course of their job duties belongs to the employer, provided that it falls within the employee's assigned tasks and is created using the employer's resources. However, the employee retains moral rights (authorship), which cannot be transferred. Employers should formalize IP assignments and specify remuneration for work-for-hire in employment contracts or supplementary agreements, ensuring compliance with Russian labor law.

For contractors engaged under civil law contracts, ownership of intellectual property is regulated similarly to employment relationships in certain aspects but differs in key areas of default rights allocation and required contractual formalities. Russian law recognizes two regimes depending on whether the contractor is the author of the work. If the contractor is not the author (e.g., an author is an employee of the contractor), the client by default holds the exclusive rights to the created work if it was developed according to the assigned task and at the client's expense. However, the right of authorship remains with the actual creator and cannot be transferred.

If the contractor is the author of the work, the exclusive rights belong to the contractor by default, and the client only has the right to use the work for the agreed purpose. To ensure full ownership, the client must include explicit provisions in the contract regarding the transfer of exclusive rights, payment terms, and usage conditions. Unlike employment agreements, contractors do not automatically transfer rights to their clients, making it crucial to draft contracts carefully to avoid potential disputes over intellectual property ownership.

Termination of Employment

Dismissal is strictly regulated and can occur only under grounds established in the Labor Code, including:

- Mutual agreement
- Expiration of a fixed-term contract
- Employee resignation (two-week notice required; one month for general directors)
- Employer-initiated dismissal (redundancy, liquidation of the company, repeated failure to perform job duties without valid reasons, single gross violation of job duties, failure to meet qualification requirements as confirmed by an attestation, loss of trust, disclosure of confidential information, and other grounds strictly defined by the Russian Labor Code)

Certain categories of employees (pregnant women, single parents of young children, and union representatives) enjoy enhanced protection against dismissal. Employers must comply with procedural requirements, including severance payments for redundancy and notice obligations in collective layoffs.

Contractor Arrangements

Independent contractors operate under civil law contracts, not labor law. They perform specific services without being subject to the company's internal work policies or schedules.

However, misclassification risks exist: if a contractor relationship exhibits characteristics of employment (e.g., fixed working hours, subordination, provision of tools by the company), labor authorities or courts may reclassify it as employment, resulting in fines and obligations to pay social contributions retroactively.

A foreign entity engaging a contractor in Russia must determine their legal status:

- **Individual entrepreneurs (IEs):** Taxed under simplified regimes, can issue invoices
- **Self-employed persons:** Subject to a preferential tax regime but prohibited from contracting with a former employer for two years
- **Individuals without special status:** Liable for personal income tax under the progressive tax scale effective from January 1, 2025, ranging from 13% (for annual income up to 2.4 million rubles) to 22% (for income exceeding 50 million rubles). Non-residents remain subject to a flat 30% rate on income derived from Russian sources. Additionally, mandatory social contributions apply unless otherwise exempt under specific provisions of Russian tax law.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of Service Contract

Unlike employment contracts, service contracts do not provide statutory severance pay, and the rules governing their termination are more flexible, making it crucial to define clear terms in the agreement to avoid disputes.

Service contracts may be terminated based on the terms specified in the agreement. Generally, termination can occur under the following conditions:

- **Mutual agreement:** Both parties consent to terminate the contract with agreed-upon terms.
- **Completion of services:** The contract ends upon the completion of the agreed scope of work.
- **Unilateral termination:** One party may terminate the contract by providing prior notice, as stipulated in the contract. However, the terminating party may be required to compensate for any incurred losses or costs.
- **Breach of contract:** If either party fails to fulfill their obligations, the other party may terminate the contract and seek damages.

Foreign Nationals' Employment

Foreign employees require work permits, migration patents (for visa-free nationals), or highly qualified specialist (HQS) status, depending on their nationality and job position. HQS employees must meet specific salary requirements, which as of March 1, 2024, have been set at a minimum of 750,000 rubles per quarter (250,000 rubles per month). Employers hiring foreign nationals must comply with notification and tax obligations, including quarterly salary reports for HQS employees and timely reporting to migration authorities regarding employment commencements, terminations, and salary payments.

Failure to comply with migration laws can result in significant fines, temporary or permanent bans on hiring foreign workers, and administrative liability, including possible suspension of business activities.

2026 Trends and Compliance Considerations

- In 2026, bonus payments are subject to stricter regulation, and any reduction or non-payment must be clearly grounded in properly drafted policies, as courts increasingly treat poorly structured bonuses as unlawful financial sanctions..
- Mentoring is now a regulated and paid employment function that requires written consent, defined scope and duration, and separate remuneration, with informal or imposed mentoring creating growing dispute risks.
- Courts in 2026 assess resignations and mutual terminations based on the overall context and employer conduct, not formal documents alone, significantly increasing risks where pressure or indirect coercion is present.
- Employers must compensate unused rest days granted for work on weekends or public holidays upon dismissal, and failures in this area have become a common source of employee claims.
- Labour regulation in 2026 continues to broaden the range of employees entitled to enhanced guarantees and benefits, making correct identification of privileged categories a critical compliance task.

CONSUMER PROTECTION

Consumer rights in Russia are comprehensively governed at the federal level by the Law of the Russian Federation dated February 7, 1992, No. 2300-1 "On Protection of Consumer Rights" (the "**Consumer Rights Protection Law**"), alongside the Rules for the Sale of Goods under Retail Sale Agreements, approved by Decree of the Government of the Russian Federation No. 2463 dated December 31, 2020, as well as the general provisions of the Civil Code of the Russian Federation and other relevant laws and decrees, to the extent they do not contradict the Consumer Rights Protection Law.

Under Russian law, a consumer is defined as an individual who intends to acquire, acquires, orders, or uses goods (works, services) exclusively for personal, family, household, or other non-business purposes.

The Consumer Rights Protection Law addresses core aspects of consumer safeguards in relation to goods (works, services), encompassing product quality and safety; shelf life, service life, and warranty periods (with specialized rules for technically complex goods, as listed in Government Decree No. 924 dated November 10, 2011); comprehensive and accurate information about goods, works, services, and their manufacturers (sellers, or aggregators); liabilities of manufacturers (importers, sellers, authorized representatives), contractors, or service providers; prohibited contract terms with consumers; and more.

For specific service categories—such as education, hospitality, tourism, finance, medicine, or others—supplementary regulations may apply.

Online Trade of Goods: Distance sales to consumers—such as through websites or online marketplaces—are subject to enhanced regulations. Sellers must provide comprehensive consumer information and facilitate returns for goods of suitable quality. Consumers may refuse delivery at any point prior to receipt and, post-receipt, within seven days; this right extends even to items non-returnable in brick-and-mortar settings. Moreover, inadequate disclosure of this return right automatically prolongs it to three months. Distinct provisions also govern information aggregators for goods and services.

Liability and Oversight: A hallmark of consumer protection law allows claims for product quality directly against sellers, importers, manufacturers, or their authorized agents, bypassing the immediate vendor. Such claims must be resolved within ten days, absent valid grounds for extension.

The Consumer Rights Protection Law imposes penalties for violations, including contractual forfeits, compensation for losses and moral harm, plus a court-awarded fine of 50% to the consumer. Non-pecuniary damages, however, tend to be modest in scale.

In addition to remedies under the Consumer Rights Protection Law, violations of consumer rights trigger administrative liability through fines as stipulated in the Code of Administrative Offenses of the Russian Federation. Criminal liability arises for the production, storage, transportation for sale, or sale of goods—or performance of works or services—that fail to meet safety standards for consumer life or health, per the Criminal Code of the Russian Federation; responsible individuals within legal entities, typically the general director, may face prosecution.

The Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing (Rospotrebnadzor) serves as the primary state authority overseeing compliance with consumer rights. Consumers may seek judicial protection directly through the courts, without mandatory pre-trial dispute resolution. Russian courts adopt a notably stringent stance in safeguarding consumer interests.

Complementing national frameworks, the Decree of the Higher State Council of the Union State of Russia and Belarus No. 6 dated December 6, 2024, "On Uniform Rules for Consumer Protection," extends its direct application to consumer relations within Russia. The Decree harmonizes safeguards across both nations—encompassing digital goods, cross-border transactions, and marketplaces—while taking precedence over domestic laws, save for the Russian Constitution, thereby elevating the baseline of consumer protections in Union State dealings.

RUSSIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

TERMS OF SERVICE

In relations between commercial entities, contracts—including Terms of Service—face no special content or term restrictions, guided solely by the principle of contractual freedom while adhering to standard requirements for all agreements (such as prohibiting limitations on liability for deliberate breaches or willful misconduct). Considerations include public law mandates, like currency controls, and formalities for the contract itself—for instance, specifying authentication and identification procedures if electronic documents are employed.

By contrast, the primary constraints govern so-called "consumer contracts," where Russian law recognizes the consumer as the inherently weaker, unprotected party.

The Consumer Rights Protection Law forbids any contract terms that infringe upon consumer rights, including:

- The contractor's or seller's unilateral right to terminate or amend the agreement (absent explicit statutory authorization);
- Limitations on the contractor's or seller's liability for non-performance or improper fulfillment (unless expressly permitted by law);
- Reductions in statutorily mandated penalties or fines;
- The consumer's waiver of claim rights; and similar provision.

Should such terms appear in consumer contracts, courts may deem them void as rights-infringing, while holding the seller or contractor accountable—with administrative fines imposed on both the company and its officials. As for contract form and applicable public rules, consumer agreements follow the same standards as those between commercial parties.

TAX/FUNDING

Tax issues

Taxation Overview:
Startups established in Russia are obliged to pay corporate income tax, VAT, personal income tax, and social security contributions.

Corporate income tax:
The standard corporate income tax rate is 25%. The corporate income tax base is calculated by deducting the amount of reasonable and documented expenses (e.g., salary, lease payments, RD expenses, etc.) from the amount of the company's worldwide income.

Value-added tax:
The sale of goods, works, services, and property rights in Russia is subject to output VAT at a rate of 22%, which can be deducted from input VAT at a similar rate.

Reduced rates and exemptions from VAT are provided for the sale of certain types of goods, services, and property rights (e.g., transfer of exclusive rights to the software and databases included in the Unified Register of Russian Computer Software and Databases).

Preferential tax regimes:
Startups may apply preferential tax regimes, which either exclude, replace certain taxes or reduce standard tax rates.

For instance, participants of innovation centers are entitled to a 0% corporate income tax rate and VAT exemption; IT startups are entitled to a reduced profit tax rate of 5%, and reduced social security contributions rates of 15% and 7.6% (for the part exceeding RUB 2,979,000 in 2026); reduced tax rates may be established in certain Russian regions, territories of advanced development, special economic zones, etc.

TAX/FUNDING, CONT'D

Tax issues, CONT'D

Forms of investing in startups:
Investing in startups can be made in two forms:

- Repayable (contributions to authorized capital or property, provision of loans);
- Non-repayable (non-repayable financial assistance; services agreements).

Contributions to authorized capital or property of a startup are generally not subject to corporate income tax, and tax neutral to the parties. Non-repayable financial assistance received by a startup may be considered income for tax purposes, e.g., if the investor's shareholding in the startup company is less than 50%.

As for loans, there are specific anti-avoidance rules in relation to interest-bearing and convertible loans.

Methods of withdrawing profits from startup:
Withdrawals of profits from a startup include dividends, interest payments on loans, royalties, sale of shares, etc.

Russian company that pays out dividends, interest, and other types of passive income to a foreign entity acts as a tax agent and must withhold tax from the amount income.

No tax is withheld upon the sale of shares in a startup, unless more than 50% of the startup's assets consist of immovable property located in the Russian Federation (in this case only capital gain is subject to taxation).

Where there is no Double Tax Treaty (or it does not apply), dividends paid out to a foreign investor are taxed at a rate of 15%, while interest, royalties, and capital gain from the sale of shares in a startup – at a rate of 25%.

Funding/Incentive Programs

In Russia, there are a lot of funding and incentive programs aimed to develop, boost and support business. However, some of such programs for business are applicable and useful for startup companies (Russian legislation contains the definition of startup company but operates with it rarely preferring more common terms, such as "company", "business", "enterprise", etc.).

There are governmental programs aimed to support startup companies on both levels: federal and regional. An example of regional program is Moscow Seed Fund founded by the Government of Moscow. Moscow Seed Fund provides different forms of support of startup companies, including preferential loans for business scaling (up to 300 million roubles) in order to create favorable conditions for the development of venture capital investment in the city of Moscow. Further details can be found at https://moscow.vc/.

An example of federal program is Russian Information Technology Development Foundation (https://rfrit.ru/), which offers the following support measures: a grant for the development of domestic IT solutions and a grant for the implementation of Russian IT solutions.

Some programs support not only startup companies but also business angels. Usually, business angels' investments in Russia are made by means of a convertible loan. A convertible loan agreement is a loan agreement that provides the lender with a right to require transfer of equity in target non-public company in its own favor instead of requiring repayment of all or part of the loan amount. In that case lender is not required to pay for the equity he gets. Under convertible loan agreement lender's obligation to pay for his shares or interest is terminated by set-off against startup company's obligation to repay loan. Buying non-controlling number of interest or shares and providing target company with loans is also available option for a business angel, but this way of funding is less common. One of the funds working with business angels is Union of Business Angels Organisations, which provides a common information, legal and expert space to facilitate investors' work with projects and increase the chances of startups to attract Russian and foreign investments (https://soba.club/).

TAX/FUNDING, CONT'D

Funding/Incentive Programs, CONT'D

Another popular program is Internet Initiatives Development Fund (IIDF), established by Agency of Strategic Initiatives. IIDF provides startup companies with different training programs, network sharing, investments up to 200 million roubles and standard corporate documentation that might be useful for structuring of startup and relations between founders, company and investors. Further details can be found at https://www.iidf.ru/.

Different programs supporting startup companies are also launched by leading Russian universities (MGIMO University, Plekhanov Russian University of Economics, etc.) and financial institutions. Sberbank of Russia, one of largest banks in Russia, launched business-accelerator, which provides an opportunity not only to win the main prize – grant for development of startup company, but also an opportunity for network with top business community and investors (https://studaccel.sberclass.ru). T-Bank also has its own startup support program (https://clck.ru/3RjyTZ).

When it comes to startup financing in Russia, one cannot fail to mention Skolkovo, Russia's largest innovation center. It plays a significant role in strengthening the foundation of the national economy: startups developing business with Skolkovo support supply domestic high-tech products for industry, medicine, transportation, IT and many others. One of Skolkovo's programs is reimbursement of a portion of costs to individuals who have invested in Skolkovo project participants.

One of the most popular tools for raising funds for startups and innovative projects in Russia is also crowdfunding or collective financing. Russian legislation even provides for the regulation of such method of attracting investments (Federal Law dated August 2, 2019 No. 259-FZ "On Attracting Investments with the Use of Investment Platforms and on Amendments to Certain Legislative Acts of the Russian Federation").

WHAT ELSE?

Compliance with Russia's public legislative norms demands particular attention, notably those under currency control laws, which impose specific rules on transactions between Russian and non-Russian entities (companies or individuals), along with penalties for breaches. Among these, Russian companies must repatriate funds—ensuring their timely crediting to designated accounts—owed under contracts from foreign counterparties.



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LEGAL FOUNDATIONS

The fundamental law of the Kingdom of Saudi Arabia (KSA or Saudi Arabia) is Shari'ah Law. Shari'ah law is a collection of principles derived primarily from the Holy Quran and the Sunnah (witnessed sayings and actions of the Prophet Mohammad – (peace be upon him)). Additionally, it is important to note, that Saudi Arabia also has a variety of statutes and regulations, each of which is prepared so as not to be inconsistent with Shari'ah. (So, it would be incorrect to assume that there are no 'legislative instruments' beyond the Qur'an itself.)

Saudi Arabia has as of 21 December 2023 enforced the new Civil Transactions Law. The Civil Transactions Law has, for the first time, codified contract law in Saudi Arabia. The objective of the Civil Transactions Law is to bring certainty and clarity over the rules governing civil transactions as well as attracting foreign investment through a more predictability in judicial rulings (previously judicial rulings were solely based on Shari'ah law principles and judges had wide discretion in handing out judgements).

It is important to note that the Civil Transactions Law is not an abrogation of Shari'ah Law, but rather a codification of Shari'ah law principles. It is also worth noting that with respect to commercial transactions in Saudi Arabia the law has retrospective application.

CORPORATE STRUCTURES

The Saudi Companies Law provides that the following types of entities may be established in Saudi Arabia:

- General partnership;
- Limited partnership;
- Joint stock company;
- Simplified joint stock company; and
- Limited liability company.

Additionally, foreign companies can also establish branch or representative offices in Saudi Arabia.

For foreign investors looking to set up business in KSA the most common forms of legal entities used are either limited liability companies or branch offices.

CORPORATE STRUCTURES, CONT'D

Limited Liability Company (LLC)

An LLC is the most common structure chosen by foreign investors. It can be 100% foreign owned, by a single shareholder (provided that the proposed business activities do not require a minimum Saudi shareholding.)

LLCs can only have a single class of ordinary shares, and the liability of each shareholder is limited to their respective capital contribution.

Generally, there is no minimum share capital requirement. Certain business activities may have specific minimum capital requirements (e.g., trading activities or certain banking and insurance activities).

LLCs can be managed by one or more General Managers or by a board of managers.

Branch office

Foreign companies can establish a branch in KSA. A branch acts on behalf of the foreign parent company and lacks independent legal status within KSA. The branch can carry out business activities that are similar to its foreign parent companies' business activities.

Unlike an LLC, the paid-up capital of a branch doesn't limit liability (it primarily serves as security for the branch's proposed activities in the Saudi market). The foreign parent company remains fully liable for the branch's activities in KSA.

Joint stock company

A Joint Stock Company (JSC) is one of the most heavily regulated type of company in KSA. A JSC can be publicly listed or closed (non-public) and may have foreign ownership subject to sector-specific regulations. They are more suitable for businesses that contemplate public listing or larger businesses with substantial capital requirements.

A JSC can also issue different classes of shares and have one or more shareholders. The minimum capital requirements for a JSC is Saudi Riyals (SAR) 500,000 (approx. USD 133,000)

Simplified joint stock company

A major change introduced in the new Companies Law in 2023 was the introduction of the Simplified Joint Stock Company (SJSC). A SJSC is a new form of company that aims to cater to the growing demands of entrepreneurship and venture capital growth.

Like a JSC, a SJSC can be publicly listed or closed (non-public) and may have foreign ownership, subject to sector-specific regulations.

An SJSC can be established by one or more persons and there is no minimum capital requirement.

An SJSC allows investors to issue multiple classes of shares without the need to comply with the strict corporate governance requirements that are needed for JSCs.

SAUDI ARABIA

ENTERING THE COUNTRY

Prior to establishing or investing in any form of entity in Saudi Arabia, foreign investors need to obtain an investment registration from the Ministry of Investment of Saudi Arabia (MISA). After obtaining a registration certificate from MISA, foreign investors can apply for a commercial registration from the Ministry of Commerce (MOC).

In order to apply for registration, a foreign investor must provide a number of documents including the articles of association of the foreign shareholders, audited financial statements for at least one year, passport copies of the ultimate shareholders and managers. There are also requirements for the documents to be notarized, legalized, and translated into Arabic.

The requirement for audited financial statements typically means that only foreign companies rather than individuals can be shareholders (unless the foreign individual has a special form of "premium" residence visa, in which case there is a dispensation from this requirement).

The investment registration process typically takes ten working days from the date of submission of the application and the supporting documents.

The commercial registration application requires submission of the MISA registration certificate, the articles of association of the KSA company, a lease contract for office space in KSA, and a bank certificate (for the capital). The commercial registration process typically takes between ten to fifteen working days from the date of issuance of the MISA registration certificate.

The fees for obtaining the investment license and the commercial registration vary depending on the types of business activities and the amount of capital.

After obtaining the investment license and the commercial registration, the KSA company needs to complete a number of registrations with other government authorities, such as the Chamber of Commerce, the labor office, the Municipality, the General Organization for Social Insurance, and the Zakat, Tax and Customs Authority. These registrations and approvals can typically be obtained within ten to fifteen working days of receipt of the commercial registration (some sector-specific or location-specific licenses that may take longer).

SAUDI ARABIA

INTELLECTUAL PROPERTY

International Conventions

Saudi Arabia is a member or signatory of several key international treaties and conventions on intellectual property, including:

- Convention Establishing the World Intellectual Property Organization
- Berne Convention for the Protection of Literary and Artistic Works
- Paris Convention for the Protection of Industrial Property
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Patent Cooperation Treaty
- Patent Law Treaty

Saudi Arabia has also recently joined the Madrid Convention, although its implementation locally is still being considered.

Copyright

A new KSA Copyright Law was issued in January 2026, the new law reflects Saudi Arabia's effort to strengthen intellectual property protection while adapting to evolving technological and economic landscapes. The law updates and replaces the previous copyright regime to align with international standards and better respond to digital-age challenges, including clearer protection for authors and neighbouring rights (e.g., performers, producers, broadcasters). It also introduces targeted exceptions (e.g., limited AI-related uses for training/testing), clarifies permissible uses for education and research, and balances creators' rights with public interest and technological innovation.

Patents and Designs

In Saudi Arabia patents and industrial designs and models are protected under the Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties, and Industrial Models, which gives effect to the Paris Convention for the Protection of Industrial Property domestically. Additionally, the GCC Patent Law provides for the single registration of patents with effect throughout the GCC. The GCC Patent Office is based in Riyadh.

A patent is protected for 20 years from the date of filing the application whereas an industrial design and models are protected for a period of 10 years.

Patents are subject to an annuity due at the beginning of each year subsequent to the year in which the application was filed and payable within a period of 3 months. Late payment of annuity fees is allowed within 3 months thereafter the annuity fee is doubled. SAIP's e-filing systems allows for e-filing, e-publication and e-registration certificates.

Trademarks

Trademarks are governed by the Trademarks Law and are also governed by the GCC Trademarks Law of 2014 which provides a unified trademark law and registration system for countries in the Gulf Cooperation Council (GCC) (Bahrain, Kuwait, Oman, Qatar and Saudi Arabia). Under the GCC Trademark Law the following can be registered as trademarks: names, words, signatures, letters, figures, drawings, logos , hallmarks titles, seals, pictures, engravings or packaging. Additionally sounds and smells may also be registered under the GCC Trademark Law.

Saudi Arabia is a member of the Paris Convention for the Protection of Industrial Property. The International Classification of Goods and Services for the Purposes of the Registration of Marks under the Nice Agreement is followed in Saudi Arabia. The GCC Trademark Law is followed in Saudi Arabia.

INTELLECTUAL PROPERTY, CONT'D

Trademarks, CONT'D

E-Registration certificates are available through the e-filing system of the Saudi Authority for Intellectual Property (SAIP). The duration of a trademark registration is 10 years from the filing date according to the Hegira (Islamic) calendar (equivalent to approximately 9 years and 8 months in the Gregorian calendar).

Registration is renewable for similar periods of 10 years each. According to the provisions of the GCC trademark law, a grace period of 6 Hegira months with a late fee is allowed for filing a renewal application after the expiration of the protection period.

The costs associated with trademark processes in Saudi Arabia vary depending on the nature of the application. Requirements for trademark registration encompass an official proxy, a detailed description of goods and services, a sample of the mark, and priority documents if applicable. Renewals necessitate an official proxy and the original or a copy of the trademark registration certificate. Additional processes such as trademark assignment, merger/license, change of name or address, application to cut out goods, trademark cancellation, and trademark search come with their own set of requirements and potential costs.

Trade Secrets

Trade secrets are governed by the Regulation for the Protection of Confidential Commercial Information 2005 (Trade Secrets Law). As per the Trade Secrets law, any information can be deemed to be a trade secret if the information meets any of the following criteria:

- if it is usually not known in its final form, or in any of its minute constituents or if it is not usually easily obtainable by those engaged in this type of business.
- if it is of commercial value due to its confidentiality.
- if the rightful owner takes reasonable measures to maintain its confidentiality under its current circumstances
- There is no limit for protection of trade secrets. Provided the owner of a trade secret maintains the confidentiality of a trade secret, it can be protection indefinitely.

SAUDI ARABIA

DATA PROTECTION/PRIVACY

Overview
The Saudi Personal Data Protection Law (PDPL) is Saudi Arabia's first comprehensive data protection law.

The PDPL has extra-territorial scope, in that it applies to the processing of "personal data" (by any means) that, relates to individuals that takes place in Saudi Arabia, including processing of Personal Data of individuals residing in Saudi Arabia by parties that are outside Saudi Arabia.

Consent is the primary legal basis for processing personal data under the PDPL. However, personal data may be processed without the consent of the data subject under the following exceptions:

- If the processing serves actual interests of the data subject, but communicating with the data subject is impossible or difficult
- If the processing is pursuant to another law or in implementation of a previous agreement to which the data subject is a party
- If the controller is a public entity and the processing is required for security purposes or to satisfy judicial requirements
- Processing is necessary for the purpose of legitimate interest of the controller (without prejudice to the rights and interests of the data subject) and provided that no sensitive data is to be processed.

The PDPL and processing personal data pursuant to the PDPL are based on the following general principles:

- The purpose of collecting personal data must be directly related to the purposes of the controlling entity, and not conflict with any provision of law.
- The methods and means of collecting personal data may not conflict with any provision of law, and be appropriate to the circumstances of its owner, and be direct, clear, safe, and free from methods of deception, misleading or extortion.
- The content of personal data must be appropriate and limited to the minimum necessary for achieving the purpose of collecting it, while avoiding including anything that leads to specifically identifying its owner, as long as the purpose of collecting it is achieved.
- If it becomes clear that the personal data collected is no longer necessary for achieving the purpose of its collection, the controlling entity must stop collecting it and immediately destroy the data that it has previously collected.

These obligations aim to ensure that the collection of personal data is lawful, fair, relevant and proportionate, and that the data subject's rights and interests are respected.

Under the PDPL, data subjects have the following rights with respect to their personal data:

- Right to be informed
- The right of access and the right to obtain personal data in a readable and clear format
- The right to request correction, completing or updating personal data and the right to request the destruction/ erasure of personal data
- The right to restrict processing and the right to object to processing
- The right to lodge a complaint
- The right to withdraw consent (if consent is the only applicable legal basis for processing)

Transfers of Personal Data
Transfers of personal data outside KSA are permitted subject to meeting certain conditions. One of the conditions for transfer includes 'adequate' protection levels in the receiving jurisdiction, however the KSA regulator has not yet published any adequacy decisions. The PDPL transfer regime contemplate a transfer regime somewhat similar to those found in jurisdictions with developed personal data protection regimes such as the EU GDPR. Examples include concepts such as Binding Corporate Rules and KSA specific Standard Contractual Clauses. One of the conditions for transfer includes 'adequate' protection levels in the receiving jurisdiction, however the KSA regulator has not yet published any adequacy decisions).

Controller Registration
The PDPL contemplates a registration requirement for controllers that meet certain thresholds to register with the competent authority. (Currently only locally incorporated entities can register, however registration rules for foreign off-shore controllers are envisaged).

Penalties
The competent supervisory authority is currently the Saudi Data and Artificial Intelligence Authority (SDAIA).
Breaches of the PDPL can attract significant penalties with fine of up to SAR 5 million (approx. USD 1.3 million). However, during the grace-period the likelihood of enforcement actions being taken is low.

ARTIFICIAL INTELLIGENCE

SDAIA is also the responsible authority for the regulation of Artificial Intelligence in the Saudi Arabia. Although there is not a formal AI regulation in Saudi Arabia as of yet, SDAIA has been actively publishing guidance on AI. Recently SDAIA published its second version of AI Ethics Principles (AI Principles) which aims to establish a principles-based ethical framework for the development of AI technologies in Saudi Arabia.

The AI principles equally apply to all public, private and non-profit AI stakeholders, whether they are developers, designers, users or individuals that are affected by AI systems within Saudi Arabia.

The AI Principles framework is based on seven key principles and accompanying controls. the principles are:

- Fairness
- Privacy & security
- Humanity
- Social & environmental benefits
- Reliability & safety
- Transparency & explainability
- Accountability & responsibility

The AI Principles provides several self-assessment tools for assessing and mapping AI risks against the principles. Entities are primarily responsible for ensuring their own compliance with the AI Principles and as such, should appoint certain key roles for assessing and monitoring compliance including a Responsible AI Officer and an AI System Assessor.

In addition to the self-assessment tools, entities are also encouraged to register with SDAIA under an optional registration scheme. Registered entities will be motivated to ensure high levels compliance through a badge system that reflects their commitment to compliance. Such a system will no doubt influence end users in identifying trustworthy AI tools and technologies.

SDAIA has also published guidance for the government and private sector with respect to the development and use of Generative AI in Saudi Arabia.

EMPLOYEES/CONTRACTORS

General
Matters relating to an employment relationship are governed by the Labour Law and its Executive Regulations. Non-Saudi (and non-GCC) nationals must be employed and sponsored by their employer to work in KSA. To obtain sponsorship, employees must seek prior approval from both the Ministry of Human Resources and Social Development (MHRSD) and the Ministry of Interior to obtain a work and residence permit (i.e., Iqama) by submitting several documents including attested educational and professional qualifications.

Contractors
In accordance with the Labor Law, a non-Saudi cannot be engaged as a contractor or work on a self-employed basis. Non-Saudi nationals can only work in KSA if they have been granted a work permit by MHRSD.

In contrast, Saudi nationals can be engaged as a contractor, but the Labor Law does not provide guidance on how this relationship should be managed. It is important to ensure that the terms of any consultancy/contractor agreement are carefully drafted to ensure that it cannot be argued that the individual has an employment relationship under Labor Law.

Work for hire regime
Non-Saudi nationals cannot compliantly work under a work for hire regime in KSA, unless the arrangement is recorded on the official government outsourcing platform referred to as the 'Ajeer' system. This is on the basis that non-Saudi nationals can only work for their sponsoring employer at the sponsoring employer's registered place of work. The Ajeer system temporarily allows a non-Saudi national to be assigned to another entity on a short-term basis. In contrast, Saudi nationals can work on a work for hire basis.

Registration with social security
All employees must be registered with the General Organization of Social Insurance (GOSI). Saudi national Employees and their employers must make social insurance contributions to GOSI towards the state pension scheme and the Unemployment Insurance Scheme. There are no contributions needed for non-Saudi nationals. A further statutory social security contribution that is paid by employers only (i.e. no deductions are made from employees' wages) is for occupational injury and illness insurance, which is also administered by GOSI. The contribution must be paid by employers in respect of all employees, both Saudi and non-Saudi nationals.

Termination
Generally speaking, employees are very well protected and the evidential threshold to summarily terminate an employee under Article 80 of the Labour Law is very high. An employee has 12 months from the date of termination to challenge the reason for termination in the Labour Courts. Additionally, any employees who are pregnant or on maternity leave (including any period of sickness resulting from the pregnancy) have special protection against termination.

For collective dismissals, if the number of Saudi national employees exceeds one percent of the entire workforce or a group of 10 Saudi workers are to be collectively dismissed, the employers have an obligation to notify the local MHRSD office 60 days prior to issuing a written notice to terminate.

CONSUMER PROTECTION

There is no comprehensive consumer protection legislation in KSA. A draft Consumer Protection Law was published for public consultation in 2022, however as of yet it has not come into force.

With respect to e-commerce, the E-Commerce Law provides some consumer protection provisions which include:

- A seven-day cooling off period
- Prohibitions on the use of consumer personal data for unauthorized purposes
- Prohibition on electronic advertisements that include any false display, statement, allegation, or misrepresentation that may lead, directly or indirectly, to deceiving or misleading consumers

The Civil Transactions Law (a codification of contract law in KSA), consumer protection is addressed at a general contractual level rather than through a standalone consumer regime. The law embeds the principle of good faith and prohibits abuse of rights, unfair dealing, and unjust enrichment in contractual relationships. The law also allows courts to nullify or adjust unfair or abusive contractual terms, particularly where there is exploitation, fraud, deception, or significant imbalance.

TERMS OF SERVICE

As per the E-Commerce Law, service providers in addition to the terms and conditions, a service provider must provide consumers with a statement that includes the following minimum information:

- Procedures required to conclude a contract
- Information related to the service provider (contact details etc.)
- Basic characteristics of the products or services
- Total prices for products or services, including all charges, taxes and delivery fees (if any)
- Arrangements relating to payment, processing and delivery of goods or services
- Information on warranties (if any)

SAUDI ARABIA

TAX/FUNDING

Taxation Overview

Saudi startups are typically organized as LLCs, JSCs, or SJSCs, subject to income tax and/or Zakat. Generally, companies established in Saudi Arabia are subject to income tax at a rate of 20% on the portion of net profits attributable to direct and indirect Saudi citizens shareholders, and/or Zakat at a rate of 2.5% on the share of profits attributable to direct and indirect Saudi citizen shareholders. Notably, for income tax purposes, a citizen of one of the Gulf Cooperation Council – "GCC" – countries is assimilated to a Saudi citizen.

Companies that are resident in Saudi Arabia must comply with mandatory legislation provisions regarding transactions among related parties and documentation requirements contained in the transfer pricing (TP) bylaws issued in Saudi Arabia in February 2019.

A non-resident, without a permanent establishment (PE) in Saudi Arabia, deriving income from sources within Saudi Arabia, may be subject to taxation in Saudi Arabia. Taxation of non-resident is achieved through withholding tax (WHT) for certain income, at a rate ranging from 5 to 20% depending on the nature of the income. WHT generally applies to payments made by residents to non-resident recipients qualifying as, among others, dividends (subject to 5% WHT), interests (subject to 5% WHT), royalties (subject to 15% WHT), management fees (subject to 20% WHT).

Capital gains realized by a non-resident upon disposal of its shares in a company resident in Saudi Arabia is generally considered as an income from sources within Saudi Arabia, subject to 20% income tax, unless a double tax treaty (DTT) would provide otherwise. Although the tax is imposed on the non-resident, it is generally levied at the level of the Saudi resident company. Saudi Arabia has concluded numerous DTTs with various countries, which may help reduce the impact of double taxation on non-residents earning income from sources within KSA. Specific procedures apply to claim DTT benefits in Saudi Arabia.

In addition to income tax, both residents and non-residents doing business in Saudi Arabia may be required to comply with other tax obligations, such as the collection and remittance of Value Added Tax (VAT). Saudi Arabia applies a VAT rate of 15% to most supplies of goods and services, and businesses must ensure proper compliance with VAT regulations.

WHAT ELSE?

Saudi Arabia has launched it Regional Headquarters (RHQ) programme to encourage multinational companies, that meet certain thresholds, to establish their RHQ in Saudi Arabia. Although this programme is not of general application, it is material for in-scope multinational companies that can benefit from the tax and employment-related incentives on offer. As part of the income tax incentives, RHQs of multinational companies in Saudi Arabia, subject to meeting the criteria set by the MISA, are entitled to benefit from a 30-year income tax and withholding tax holiday. It is of course recommended to seek advice before establishing an RHQ in Saudi Arabia to ensure eligibility for the abovementioned benefits.



SERBIA

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SERBIA

LEGAL FOUNDATIONS

Serbia is a civil law system with a hierarchy of constituent legal sources, whereby the Constitution, ratified international treaties and universally accepted rules of international law stay at the top. Serbian legal system also relies on sets of codified legal norms (mainly through codes and laws) in the field of public, private and criminal law, updated from time to time:

Serbian public law covers the relationship between individuals and the Serbian country and is enforced mainly through public bodies (e.g., procedures before public authorities).

Private law governs the relationship between individuals (e.g. contracts, liability etc.) and is codified in various laws. One of the pillars in this context is the Law on Obligations, regulating private relationships and resulting rights and obligations on a more general level. Besides this law, there are many more laws for each specific field (e.g., employment, trade, e-commerce, company law).

Criminal law is mainly codified in the Serbian Criminal Code (material provisions) and in the Serbian Law on Criminal Procedure (procedural provisions).

In terms of the political system, Serbia is a unitary parliamentary country, with three main formally independent powers – executive, legislative and judiciary.

Serbian laws are enacted by the Serbian National Assembly. Serbia also has autonomous provinces and local self-governments which have their own bodies and pass their own bylaws (always in accordance with the national laws), usually in matters with specific local importance (such as water and waste management), whereby the criminal framework is exclusively enacted at a national level.

SERBIA

CORPORATE STRUCTURES

Serbian law provides for various corporate structures in which a business can be conducted, whereby **limited liability company** and **entrepreneurship** are the most relevant and commonly used with start-ups. Besides the mentioned, Serbian laws also knows of forms such as public, i.e., joint-stock company, certain forms of partnerships, branch or representative offices of local or foreign entities, although these are generally not as widely used and as beneficial for start-ups.

Certain business activities (e.g., banking, insurance) can only be performed through specific corporate forms and are thus limited from freedom of choice of form in which they would operate. Moreover, certain business activities entail fulfilment of a set of regulatory requirements prior to their performance (e.g., trade of medicines and medical devices), i.e., the sole incorporation would not be sufficient to dive into the business.

Besides the incorporation procedure explained below, in order to become operational, there are few other registrations and formalities that both limited liability company and entrepreneurs have to perform in order to become operational – including general tax registration, VAT registration (if applicable and if not done as part of the registration procedure), registration with the public revenue authorities and opening of a bank account.

ENTERING THE COUNTRY

Serbian Law on Investments generally warrants equal treatment to domestic and foreign investors. In this regard, the Law on Investments prescribes the following rights:

- freedom to invest,
- protection of acquired rights,
- guarantees against expropriation,
- national treatment of foreign investors,
- freedom to effectuate payments towards foreign entities, and
- the right to transfer of profits and property of the foreign investor - this includes in particular the right of foreign investors to free transfer of financial and other assets in relation to the investment (such as profits), after the payment of all taxes and other relevant obligations.

In addition to the mentioned Law on Investments, foreign investments are protected in Serbia by bilateral investment treaties (Serbia currently has 46 bilateral investment treaties in force), treaties with investment protection mechanisms (such as CEFTA), and other investment related instruments (such as ICSID Convention).

Generally, Serbia is notably open towards foreign investments, especially in the IT/tech sphere, where numerous tax relief and benefit schemes were recently introduced to boost foreign capital involvement.

SERBIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

Serbian law recognizes various intellectual property rights, whereby some of them need to be registered in order to enjoy legal protection. Most relevant for start-ups, these include (i) trademark, (ii) patent, and (iii) industrial design.

Trademarks

What is protectable? Any sign suitable for the distinguishing in the channels of commerce of goods and services and which can be shown in the Trademark Register in a manner which enables the competent bodies and the public to determine the protected sign. Once registered, no other brand can use the same or similar product name for the same or a similar product.

Where to apply? Trademarks can be filed with the Serbian Intellectual Property Office (Serbian IPO) for trademark protection within Serbia. If the goods or services will be marketed in other countries, a filing with the World Intellectual Property Organization (WIPO) through the Serbian IPO under the Madrid System will also be needed. The Serbian IPO then examines whether the application for trademark registration contains all the essential elements prescribed by Serbian law and if so, enters data from the application into the E-register of trademarks. The date of entry also represents the date of acquiring the priority right on the sign from the application. Afterwards, the Serbian IPO will conduct a formal and substantive examination of the application and if there are no reasons for its refusal, the data from the application is published in the Intellectual Property Gazette. After the expiry of three months from the publication date, if no opposition has been filed or if the opposition has been rejected or refused by a final decision, the Serbian IPO shall invite the applicant to pay the prescribed fee and register the trademark.

Duration of protection? The trademark registration remains valid for 10 years from the date of application. It can be renewed an unlimited number of times, upon submission of an application and payment of the appropriate prescribed fee.

Costs? The trademark application fee is RSD 20.700 (approx. EUR 180) for written applications and RSD 15.532 (approx. EUR 130) for applications submitted electronically for up to three classes. Graphs are additionally charged with a fee of RSD 4,150 (approx. EUR 35). The same fee applies for written applications and RSD 3,113 (approx. EUR 26) for applications submitted electronically for each additional class. Maintenance fee for the period of ten years is RSD 41.370 (approx. EUR 350) for up to three classes (fee for each additional class is RSD 6,210 (approx. EUR 55)).

Patents

What is protectable? Any innovation that solves a certain technical problem in the form of a product or process. There are three main characteristics of protectable invention: (i) novelty, (ii) inventiveness, and (iii) industrial applicability.

Where to apply? Patent application is filed with the Serbian IPO. The application can be filed in a foreign language, providing the translation in the Serbian language subsequently, within two months.

Duration of protection? The term of protection lasts a maximum of 20 years from the date of application and must be maintained by annual fees which gradually increase with each following year. Serbian law also recognizes petty patents, protected up to 10 years.

Costs? The application fees for registering patents or petty patents for up to ten claims amount up to RSD 10,320 (approx. EUR 90) and RSD 1010 (approx. EUR 9) for each additional claim. Maintenance fees go from RSD 14,470 (approx. EUR 125) up to RSD 124,120 (approx. EUR 1060).

Employee invention and inventor bonus? The employer has the right to protect the employee's invention, unless otherwise stipulated in the contract between the inventor and the employer. If the employee's invention is protected in the name of the employer, the inventor has moral rights related to that invention, as well as the right to compensation. When it comes to software, it should be noted that under Serbian law software is always protected as copyright (rather than patent), the patent protection does not seem to be of much practical importance in that respect. Patent protection may, on the other hand, be of importance in cases where the employer participates (individually, or with others) in coining of inventions.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

Trade secrets are protected under the Law on Protection of Trade Secret and are not subject to registration. This law prescribes that information will enjoy protection as a trade secret if it meets the following criteria:

- information is secret because it is not known or easily accessible to persons who generally come into contact with such information in the course of their activities;
- it has, as a secret, a commercial value;
- the holder of the information has taken reasonable steps to preserve its secrecy.

There is no time limit to the legal protection granted to trade secrets. However, in case of a breach of a trade secret, a person may bring a lawsuit against another person for breach of a trade secret within one year from becoming aware of the breach and within five years from the occurrence of the breach. Trade secrets are regularly also contractually protected by non-disclosure agreements, which enables additional legal certainty.

Republic of Serbia is a member of the Madrid Agreement and the additional Protocol.

DATA PROTECTION/PRIVACY

Processing of personal data in Serbia is principally regulated by the Personal Data Protection Law (DP Law). The DP Law presents a copy of the GDPR to a large extent. As a result, it may be argued that, at least formally, Serbian data protection legislation corresponds to that in the EU to a substantial extent. Generally, the principles of data processing and the key obligations under the DP Law are copied from the GDPR with no substantial exceptions. On the other hand, there are some noticeable differences, mostly concerning cross-border transfer of personal data, as explained in more detail below.

Key obligations under the DP Law

The DP Law introduces the same set of key obligations as the GDPR does. This means that it is particularly important that companies ensure that:

- the processing of personal data complies with the general principles of data protection: lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, security and accountability;
- there is an appropriate legal basis for processing personal data, which is determined on a case-by-case basis;
- the data subjects are properly informed about all aspects of processing prior to initiation of the processing. This can be performed by providing them with a privacy notice containing all information required under the DP Law;
- appropriate security measures for the protection of collected data and personal data breach procedures are implemented;
- data subjects are offered the ability to exercise their rights granted under the DP Law (e.g., access, right to be forgotten, right to object to processing, etc.);
- adequate recordkeeping documents are maintained (i.e., so-called Records of Processing Activities).

Information which should be presented to data subjects

Under the DP Law, each data subject should be duly informed of a set of information explaining how their personal data are processed. The set of information as required under the DP Law mirrors the information required under Article 13 of the GDPR. The text should be made available in Serbian language and should be made easily available to the data subjects. For example, employees should be presented with respective privacy policies prior to initiating work and a copy thereof would best stay available on internal communication platform. Online customers can be presented with their privacy policy before they insert their data on check-out, by way of a pop-up banner leading them to the text of the privacy policy.

DATA PROTECTION/PRIVACY, CONT'D

Transfer of personal data

Similar to the GDPR, legal requirements for cross-border data transfers depend on the final destination of the personal data being transferred. As a general rule, if the data is being transferred to a country which provides an adequate level of personal data protection under Serbian law, the implementation of additional safeguards is not needed. These countries include all European countries as well as the US (but only in case of transfers to commercial organizations participating in the EU-US Data Privacy Framework), Canada (only commercial organizations), Israel, Japan, New Zealand, Argentina, Armenia, Georgia, Azerbaijan, Cape Verde, Mauritius, Mexico, Morocco, Senegal, Tunisia, Uruguay and the Republic of Korea.

On the contrary, where the data is being transferred to a country which is not considered a country which enables adequate level of personal data protection under Serbian law (e.g., the US, in case of transfers to commercial organizations which do not participate in the above mentioned EU-US Data Privacy Framework), one of the additional safeguards must be implemented. The safeguards recognized under the Serbian law follow the ones from the GDPR, but insist on appropriate authorization of the relevant transfer safeguards/legal grounds by the competent Serbian authorities, rather than by the EU Commission or EU supervisory authorities.

Finally, another notable difference from the GDPR is the generally low penalties under the DP Law, reaching a maximum of RSD 2 million (approx. EUR 17,000), comparatively lower against the GDPR potential fines.

ARTIFICIAL INTELLIGENCE

In Serbian legislation, specific regulations regarding artificial intelligence ("AI") are yet to be developed; the framework for such regulations is still in its early stages.

That being said, in 2025, the Republic of Serbia adopted the Artificial Intelligence Development Strategy for the period 2025-2030, in alignment with the European Initiative on Artificial Intelligence. This initiative outlines the policy set by the European Commission in the field of artificial intelligence, and it serves as a continuation of Strategy for the previous period (2020-2025).

The previous Strategy laid the foundations and outlined the path for the development of AI in the Republic of Serbia by integrating AI in various areas of life such as education, scientific and technological development, the application of AI in public administration, the IT industry, and the development of next-generation networks. In addition to the development and implementation plan for AI, the measures prescribed by this strategy should ensure that AI in Serbia develops and is applied in a safe manner and in accordance with internationally recognized ethical principles.

The new Strategy, through the implementation of special measures, aims to:

Establish an institutional and legal framework by adopting a law dedicated to the usage of AI, while ensuring its safe and secure use;

- Improve primary, secondary and higher education in the field of AI;
- Encourage the devolution of science, innovation and new technological solutions based on AI;
- Promote the use of AI in both the public and private sectors, with a special focus on medicine, biotechnology, education, agriculture and information security;
- Promote the understanding of importance, standardization and development of data; management with the aim of developing science and creating AI-based business solutions; and
- Improve infrastructure in all areas that contribute to the development of AI.

SERBIA

EMPLOYEES/CONTRACTORS

General: Under Serbian labour law, workers may be engaged on the basis of an employment contract, a non- employment contract or as entrepreneurs. Generally, the type of contract itself determines the status and the minimum rights and obligations thereunder.

Employer and employee must conclude an employment agreement in written form, which stipulates their mutual rights and obligations. Employee has certain basic rights prescribed by the Employment Law, such are the right on minimal salary, safety and health at work, personal dignity, as well as the right on annual leave (vacation), rest period during the day, parental leave, sick leave etc. However, instead of concluding the employment agreement, it is possible to conclude service agreement instead, in which case the rights from employment relationship provided by the law do not have to be granted to the contractor.

In this case, it is important to pay attention to the so-called Independency Test, introduced in 2020 with the aim to limit the more favourable tax treatment of entrepreneurs in Serbia, in cases where they actually perform work for a specific company in a manner substantially similar to that of regular employees, rather than as independent contractors. Failing the test (i.e. fulfilling at least five of the total of nine criteria) means higher taxation rate for the contractor. Also, particular attention should be made with respect to regulating the IP rights arising from engagement of contractors.

Foreign employees may only enter into an employment relationship if they obtain unified work and residence permit, which they can get for 3 years. After 3 years foreign employees can apply for permanent residence if they meet all the criteria.

Work for hire: Employers can engage a person based on a "work for hire" agreement only for the purpose of performing tasks that are outside the employer's activities, in order for the person to independently execute a certain physical or intellectual work or produce or repair a certain item.

Taxes and social security contributions: Employer is obliged to register employees with the Central Register of Compulsory Social Insurance and to calculate and pay a monthly amount (taxes and social security contributions) based on the employee's salary.

Termination: Employer may terminate the employment relationship with the employee only in cases stipulated by the law. Basically, there are 2 groups of reasons:

- Causes which relate to employee's work ability and his conduct (e.g. not achieving the work results, not having necessary knowledge and skills to perform his duties, sentencing of the employee for the crime committed in the workplace etc.)
- Causes which relate to breach of the work duty or work discipline of the employee (e.g. negligence in performing work duty, irresponsible use of means of work, etc.)

In addition, employment can be terminated if due to technological, economic or organizational changes at employer the need to perform certain work ceases or there is a reduction in the scope of work.

In any case, it is important to note that strict procedure with respect to termination must be conducted – otherwise, there is a high risk of the (former) employee initiating the procedure before the competent court in order to protect his rights. Serbian courts are rather rigid when it comes to interpretation of law provisions with respect to the termination procedure and are usually protective of the employee.

CONSUMER PROTECTION

Consumer protection is an area to which Serbian legislators paid particular attention, providing natural persons who qualify as consumers a preferential status through a number of favorable provisions. This is done mainly through the Serbian Consumer Protection Law (Consumer Protection Law), a rather fresh law transposing much of the EU level of protection of consumers.

Consumer Protection Law provides for a wide set of rights for the consumers, such as the right to safety, to being informed, to being able to choose and to have means for redress. On top of these basic rights, the legislator pinpointed some distinctive behaviors of traders which are particularly unfair in the view of a consumer. To put an end to such behaviors, Consumer Protection Law knows of the so-called (i) deceptive business practices (e.g. if the information provided by the trader may deceive the consumer with respect to the nature, price or the features of the product), (ii) pushy business practice (e.g., repeatedly addressing the consumer against his will, by telephone, fax, e-mail or other means of electronic communication), and (iii) unfair contractual provisions (e.g. denying the consumer the right to seek redress).

The Consumer Protection Law also regulates distance agreements, prescribing various obligations for the trader with respect to informing consumers, as well as giving the right to the consumer to withdraw from an agreement within 14 days without cause.

Consumer Protection Law also has provisions regulating direct marketing, requesting explicit consent of the consumer to such marketing activity, as well as the requirement to transmit the promotional nature of a message, each time the message is conveyed for promotional purposes. The protection consumers enjoy under these provisions is additional to that enjoyed under the Law on Advertising, a general law governing advertising and prohibited advertising activities.

Finally, depending on the particular business conducted in relation to consumers, the applicability of the Law on Trade, regulating trade in a general manner, and the Law on E-Commerce, regulating particularities regarding e-commerce, may come into play and should be considered by a business.

SERBIA

TERMS OF SERVICE

Terms of service become binding to the other party only if the content of the terms was made known to the other party or must have been known to it at the time of conclusion of the agreement to which they relate.

Specifically, when the other party is a consumer, the online terms of service are preferably communicated to the consumer via a tick-box with the possibility to acquaint with the content upfront and throughout the contractual relationship.

From the perspective of the Consumer Protection Law, terms of service should avoid including the so-called unfair contractual provisions (mentioned in the previous section). These include, for example:

- exclusion or limitation of the consumer's right to seek redress;
- stipulating for an exclusive right to determine whether the delivered goods or rendered services are in accordance with the agreement;
- stipulating for an exclusive right to interpret contractual provisions;
- exclusion or limitation of the trader's liability for the death or bodily injury of the consumer due to the trader's actions or omissions;
- preventing or limiting the possibility for the consumer to get acquainted with the evidence or shifting the burden of proof to the consumer in the case where the burden of proof is on the trader;

TAX/FUNDING

Serbian start-ups are typically organized in the legal form of limited liability companies ("društvo sa ograničenom odgovornošću"). Therefore, we limit our tax overview on the investment into start-ups organized as an Serbian LLC.

Tax

Corporate Income Tax – Serbian LLCs are subject to a flat CIT rate of 15%.

Withholding Tax (WHT) – Flat rate WHT of 20% is payable on the following types of income paid by resident taxpayers to non-resident entities abroad:

- Dividend;
- Interest;
- Royalties;
- Income from rent of moveable and immoveable property located in Serbia; and,
- Business services fees.

Withholding tax may be eliminated or reduced on the basis of a double tax treaty (**DTT**) between Serbia and recipient's country of residence. Most tax treaties prescribe lower tax rates for dividends, interest, royalties, and rental income.

TAX/FUNDING, CONT'D

Tax, CONT'D

Capital gains tax - For tax purposes, capital gains may be generated from the disposal against consideration of immoveable assets, shares, IP rights and investment units.

Non-residents that generate capital gains in Serbia have to file a tax return through appointed tax representative and to pay the tax (if any) on the basis of tax resolution issued by the tax administration. However, the capital gains tax can be eliminated under the DTTs Serbia has concluded.

Salary tax - is levied at a 10% tax rate applicable on the gross amount of salary decreased by the monthly non-taxable amount of RSD 34.221 (approx. EUR 292).

Salaries (and other similar types of income generated from work) are also subject to an obligation to pay contributions for mandatory social security insurance (**SSC**). The total SSC rate is 35,05%.

Tax and social security contributions are payable by the employer on the withholding basis if the employer is a resident legal entity.

VAT - The Serbian VAT system is modelled after the EU VAT Directive, and the majority of general VAT principles applicable throughout the EU apply also in Serbia.

Serbian companies have to charge Serbian VAT at a rate of 20% for the supply of goods or services but are also entitled to deduct input VAT for the supplies of goods and services they receive.

For taxpayers whose turnover in a 12-months period exceeds RSD 50 million (app. EUR 420,000), the tax period is a calendar month. Taxpayers whose turnover does not exceed this threshold are required to account and pay VAT quarterly.

Tax incentives

The taxpayer which invests or in whose new fixed assets another entity invests more than RSD 1 billion (app. EUR 8.3 mil.), and which employs at least 100 new employees during the period of investment, has the right to the reduction of tax proportionally to the participation of the new fixed assets in the existing fixed assets, for a period of ten years.

Investments in start-ups are also subject to beneficial tax treatment. Taxpayers investing in start-ups enjoy tax credit in amount of 30% of investment.

Capital gains and royalties collected by resident taxpayers for use of IP rights may be exempted from CIT in amount of 80%.

Finally, employers engaged in R&D activities are entitled to exemption from payment of 70% of the salary tax and 100% of the contributions for pension and disability insurance payable for the salaries of employees directly engaged in R&D process.

TAX/FUNDING, CONT'D

Funding

Serbia has invested in creating a suitable climate for startups and offering infrastructural assistance in developing startups. Below is an overview of key institutions in assisting startups.

Development Agency of Serbia – One of the key agencies for assistance in development of projects in Serbia. More information can be found at https://ras.gov.rs/.

Innovation Fund of Serbia - the key state institution specialized in providing support for innovation activities and managing funding for stimulating innovation. Depending on the stage of development and the type of support, the fund organizes several programs multiple times a year. More information can be found at https://www.inovacionifond.rs/cir/.

Startap portal - summarizes all necessary information about current events and programs, as well as general information about startup ecosystem in Serbia. More information can be found at https://startap.gov.rs/.

Science Technology Park Belgrade – offers support to build and accelerate the development of startups. This includes assistance in finding suitable financing and reach new markets. More information can be found at https://ntpark.rs/.

WHAT ELSE?

Compulsory membership in the Chamber of Commerce and Industry of Serbia:
Membership in the Chamber of Commerce and Industry of Serbia is mandatory for all companies on the territory of Serbia, which implies the duty to pay a unique monthly membership fee, while the newly established companies are released from the duty of paying the membership fee in the first year following the day of their incorporation.



SINGAPORE

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SINGAPORE

LEGAL FOUNDATIONS

Singapore is a sovereign republic and has a legal system based on English common law. Its body of law is created incrementally by judges through the application of legal principles to the facts of particular cases. Apart from the common law, Singapore has also enacted several legislations to govern specific areas of law. It is mandated that any legislation contrary to the Constitution of Singapore shall, to the extent of the inconsistency, be void.

The Constitution lays down the fundamental principles and basic framework for the three organs of state, namely, the Executive, the Legislative and the Judiciary:

- The Executive comprises the Cabinet. The Prime Minister and other Ministers are elected to make up the Cabinet, which is responsible for the government's general direction while being accountable to Parliament.
- The Legislative comprises Parliament and it is responsible for enacting legislation.
- The Judiciary functions to independently administer justice and is made up of the following courts:
  a. The Supreme Court (which consists of the Court of Appeal and the High Court)
  b. The State Courts (which consists of the District Courts, the Magistrate's Courts and other courts and tribunals)
  c. The Family Justice Courts (which consists of the Family Courts, Youth Courts and Family Division of the High Court)

The Supreme Court and State Courts hear civil cases and criminal cases; while the Family Justice Courts hear family cases and selected criminal cases involving youth offenders.

Decisions of the Singapore Court of Appeal (the apex court in Singapore) are strictly binding on the High Court, the District Courts, the Magistrate's Courts and other lower courts.

Singapore courts interpret the legislations and apply it to the facts in each case. The courts are empowered under the Civil Law Act to administer the common law as well as equity concurrently.

SINGAPORE

CORPORATE STRUCTURES

In Singapore, there are a few main types of business structures to choose from. They are:

1. Sole-Proprietorship (one owner)
2. Partnership (two or more owners)
3. Limited Liability Partnership
4. Limited Partnership
5. Company

We set out details of the relevant business structures below. Generally speaking, the only form of business structure that is suitable for a "start up" to set up its business in Singapore would be a private limited company.

Company

A company incorporated under the Companies Act is a separate legal entity from its directors and shareholders. A company can sue and be sued in its own name, can own property in its name and is generally liable for its own debts and liabilities. A company has perpetual succession until wound up or struck off. A company can also issue shares, including shares with differential rights as to dividends, voting or liquidation, and this makes it suitable as a vehicle for raising capital from professional investors like venture capital funds.

Companies in Singapore include private companies limited by shares and public companies limited by shares. A private company limited by shares has a limit of 50 shareholders, and the right to transfer shares in the company must be restricted, whereas a public company limited by shares is not subject to these restrictions.

A company must have at least one shareholder, which can be a natural person or an entity.

Every company must have at least one director who is locally resident in Singapore. A director must be a natural person who is at least 18 years old. Foreigners who do not have a locally resident director can engage a nominee directorship service to satisfy the resident director requirement. A company director is responsible for managing the affairs of the company and setting the company's strategic direction. The director also has the legal duty to advance the interests of the company, act honestly and in good faith in exercising the given powers.

Companies must appoint a company secretary within 6 months from the date of incorporation who must be locally resident in Singapore. A company must also appoint an auditor within 3 months from incorporation unless exempted. A "small company" is exempt from auditing its financial statements. A company qualifies as a small company if:

- it is a private company in the financial year in question; and
- it meets at least 2 out of 3 of the following criteria for the immediate previous two financial years:
  - total annual revenue ≤ SGD 10m;
  - total assets ≤ SGD 10m;
  - no. of employees ≤ 50.

Limited Liability Partnership

A limited liability partnership ("LLP") registered under the Limited Liability Partnerships Act 2005 of Singapore is a separate legal personality from its partners, combining partnership flexibility with limited liability. An LLP must have at least two partners (individuals aged 18 or above or corporate entities) and at least one locally resident manager who is a natural person of full legal capacity. An LLP is required to keep accounting records, profits and loss accounts and balance sheets that will sufficiently explain the transactions and financial position of the LLP. An LLP is also required to lodge annual declaration of solvency.

CORPORATE STRUCTURES, CONT'D

Limited Partnership

A limited partnership ("LP") is a partnership comprises at least one general partner and one limited partner and does not have separate legal personality. General partners have unlimited liability and may participate in management, while limited partners' liability is limited to their agreed investment provided they do not take part in management, failing which they may incur unlimited liability.

Individuals or corporate entities may act as general or limited partners. Where all general partners are non-resident, the LP must appoint a locally resident manager, who assumes statutory responsibilities similar to those of a general partner in the event of default.

Partnership

A general partnership consists of between two and twenty partners, who may be individuals or corporate entities. It does not have separate legal personality, and partners have unlimited personal liability for the partnership's debts and obligations.

Where all partners are non-resident, a locally resident authorised representative, being a natural person of full legal capacity, must be appointed.

Sole Proprietorship

A sole proprietorship has no separate legal personality, and the proprietor bears unlimited personal liability for the business's debts and obligations. Sole proprietors are generally treated as self-employed and are subject to fewer ongoing compliance requirements than companies.

Where the proprietor is non-resident, a locally resident authorised representative, being a natural person of full legal capacity, must be appointed

Unlike companies, sole-proprietors have lesser ongoing compliance requirements (for example, they do not have to adhere to annual reporting requirements).

For all the above, there are also other compliance and regulatory requirements which may be applicable under the relevant legislation.

ENTERING THE COUNTRY

In Singapore, there are no general legislation that provides comprehensive rules on foreign investment specifically. However, foreign investment in certain sectors and strategic industries which require safeguards to protect consumers or where national interests are concerned are restricted to some extent. In general, Singapore regulates foreign investment in the following sectors:

1. Financial Services and Banking;
2. Media;
3. Legal Services; and
4. Land Ownership and Real Estate.

Where there is sector-specific regulation, Singapore does it through:

- Enacting relevant legislation such as the following:
  - Broadcasting Act
  - Newspaper and Printing Presses Act
  - Banking Act
  - Securities Futures Act
  - Financial Advisers Act
  - Residential Property Act
  - Competition Act
  - Significant Investments Review Act
- Implementing licensing regime through the relevant regulatory authorities, such as:
  - Info-communications Media Development Authority (IMDA)
  - Monetary Authority of Singapore (MAS)
  - Legal Services Regulatory Authority (LSRA)
  - Competition & Consumer Commission of Singapore (CCCS)

The Singapore government encourages foreign investment and adopts a consultative approach between the regulatory authorities, stakeholders and foreign investors. Foreign investors may also tap into the various governmental grants, assistance and tax incentives administered by Enterprise Singapore and other governmental agencies or partners. However, most require some form of local shareholding (usually about 30%).

SINGAPORE

INTELLECTUAL PROPERTY

The following types of intellectual property rights can be registered in Singapore:

Trademarks

What is protectable? Any sign capable of being represented graphically and which is capable of distinguishing goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person.

Where to apply? National trade mark applications can be filed with (i) the Intellectual Property Office of Singapore (IPOS) and international trade mark applications can designate Singapore as one of the countries for protection through (ii) the World Intellectual Property Organization (WIPO) via the Madrid System. An application for trade mark registration can be filed with the new IPOS e-services portal, IPOS Digital Hub. The trade mark will be registered if no one opposes the application or if an opposition has been decided in the applicant's favour.

Duration of protection? The trade mark registration remains valid for 10 years. 6 months before the expiry of the registration, the applicant can file for a renewal of the registration to extend the protection of your trade mark for another 10 years.

Patent

What is protectable? To protect inventions that are novel, inventive and industrially applicable.

Where to apply? Patent applications can be filed with either (i) the Intellectual Property Office of Singapore (IPOS) or PCT National Phase Entry route through (ii) WIPO. If you are a Singapore resident, you are required to obtain written authorisation from IPOS before filing an application for a patent outside of Singapore. This is called a National Security Clearance.

Duration of protection? The term of protection is a maximum of 20 years from application and must be maintained by renewal fees during the 20-year period.

Employee invention and inventor bonus? Pursuant to the Singapore Patents Act, inventions made by employees in the course of their employment generally vest in the employer, subject to limited statutory exceptions. There is no statutory entitlement to inventor compensation beyond salary, and any additional remuneration is typically a matter of contractual agreement.

Designs

What is protectable? Features of a shape, configuration, colours, pattern or ornament applied to any article or non-physical product that give that article or non-physical product its appearance. It protects the external appearance of the article or non-physical product.

Where to apply? National trademark applications can be filed with (i) the Intellectual Property Office of Singapore (IPOS) and international trade mark applications can designate Singapore as one of the countries for protection through (ii) WIPO via the Hague System.

Duration of protection? Protection for a registered design lasts for an initial period of 5 years from the date of filing the application. The registration may however be renewed every 5 years up to a maximum of 15 years, subject to the payment of renewal fees.

Other less common IP rights that can be registered are:

- Geographical Indications
- Plant Variety Rights

INTELLECTUAL PROPERTY, CONT'D

The following IP rights cannot be registered:

Copyright

What is protectable? An expression of ideas in tangible form is protected. This includes literary, dramatic, musical and artistic works. Additionally, films, sound recordings, television and radio broadcasts, cable programmes and performances are also protected by copyright. Copyright protection is enjoyed by the author automatically upon the creation of a work and expression of the work in tangible form. No registration is required.

Duration of protection? Authorial works (with known authors) will be protected for 70 years from the death of the author. Films and anonymous or pseudonymous works will be protected for 70 years from the making of the work, the making available of the work to the public, or first publication, depending on whether and (if so) when these acts are carried out.

Exploitation of copyright protected work? Copyright owners have the exclusive right to use and exploit the protected work. It is the right to prevent others from reproducing, publishing, performing, communicating to the public, or adapting your work.

Confidential Information / Trade Secrets

What is protected? Trade secrets are a type of confidential information protected in Singapore under the common law. Confidential information and trade secrets are not registrable intellectual property rights and not protected under any legislation in Singapore. In considering whether a breach of confidence is made out, the following will be considered: (a) Whether the information has the quality of confidentiality, (b) Whether the information was imparted in circumstances importing an obligation of confidentiality. An obligation of confidentiality can be found even where confidential information has been accessed or acquired without the company's knowledge or consent, and (c) If the above two elements are satisfied, an action for a breach of confidence is presumed and it is then for the defendant to rebut this presumption and prove that his conscience was unaffected.

To protect confidential information, including trade secrets, it would be prudent for the company to put in place relevant clauses in its contracts with employees, third parties and other entities to ensure protection. This includes including confidential information provisions in employment agreements and entering into non-disclosure agreements with potential investors.

Duration of protection? As long as appropriate measures are in place and information has the quality of confidentiality, confidential information protection applies.

DATA PROTECTION/PRIVACY

The Personal Data Protection Act (PDPA) provides a baseline standard of protection for personal data in Singapore. It comprises various requirements governing the collection, use, disclosure and care of personal data in Singapore. It also provides for the establishment of a national Do Not Call (DNC) Registry, allowing individuals to opt out of receiving unwanted telemarketing messages from organisations.

The Personal Data Protection Commission (PDPC) was established to administer and enforce the PDPA as well as to implement policies related to personal data protection and develop Advisory Guidelines to help organisations understand and comply with the PDPA.

If the PDPC investigates and finds that an organisation has breached any of the PDPA provisions, the PDPC will direct the organisation to take steps to ensure compliance such as:

- Stop collecting, using or disclosing personal data in contravention of the PDPA;
- Destroy personal data collected in contravention of the PDPA;
- Provide access to or correct the personal data; and/or
- Pay a financial penalty.

To comply with the PDPA, it is critical to implement personal data protection policies and communicate such policies to your employees. It is also compulsory under the PDPA for your business to appoint one or more Data Protection Officer(s) (DPO) to supervise your business' collection, usage and disclosure of personal data (among other obligations).

There are other sector-specific laws and regulations, which imposes additional data protection and cybersecurity requirements in relation to regulated entities. We set out some examples of sector-specific regulations below:

1. the Healthcare Services Act 2020 and Health Information Bill, as well as the regulations and licensing conditions issued thereunder address the confidentiality and retention of medical records;
2. the Code of Practice for Competition in the Provision of Telecommunication Services 2012 ("Telecom Competition Code", "TCC") issued under the Telecommunications Act 1999 governs the use of end-user service information by telecoms licensees; and
3. the Banking Act 1970 (2020 Revised Edition) ("Banking Act") contains a number of banking secrecy provisions which govern customer information obtained by banks.

ARTIFICIAL INTELLIGENCE

Singapore does not currently have any specific legislation for the general use of AI. However, Singapore has adopted a strategy in overseeing AI utilization by various industries. There are several legislations which regulate AI-enabled or AI-based technology.

AI has been identified by the Singapore government as one of four frontier technologies which is essential to growing Singapore's Digital Economy, alongside Cybersecurity, Immersive Media and the Internet of Things. In 2019, Singapore, through the Smart Nation and Digital Government Office, unveiled the National AI Strategy, outlining plans to deepen the use of AI to transform the economy. In 2023, the government launched the Singapore National AI Strategy 2.0 (NAIS 2.0) to building a trusted and responsible AI ecosystem, driving innovation and growth through AI.

To complement this national initiative, there are voluntary guidelines issued by key government agencies to encourage the responsible development, deployment and use of AI:

- the Model Artificial Intelligence Governance Framework (the "Model AI Governance Framework") which was introduced in 2019 and updated to its current second edition in 2020 was released by the Infocomm Media Development Authority (IMDA) and Personal Data Protection Commission (PDPC), along with an AI governance testing framework and a software toolkit under AI Verify. The Model AI Governance Framework is to be read along with the Implementation and Self-Assessment Guide for Organisations (ISAGO), which sets out a series of questions to test for compliance;
- the Model AI Governance Framework for Generative AI was finalised on 30 May 2024 by the AI Verify Foundation and IMDA to address issues which are unique to generative AI (e.g. hallucination, copyright infringement, value alignment), building upon the existing Model AI Governance Framework;
- on 1 March 2024, the Personal Data Protection Commission of Singapore published Advisory Guidelines on the Use of Personal Data in AI Recommendation and Decision Systems to provide organisations with certainty on when they can use personal data to develop and deploy systems that embed machine learning models ("AI Systems"), and give consumers assurance on the use of their personal data in AI Systems, since they are typically used to make autonomous decisions or assist a human decision-maker through recommendations and predictions;
- The Cyber Security Agency of Singapore (CSA) has published Guidelines on Securing AI Systems on 15 October 2024 to help system owners secure AI throughout its lifecycle. These guidelines will help to protect AI systems against classical cybersecurity risks such as supply chain attacks, and novel risks such as Adversarial Machine Learning; and
- the IP and Artificial Intelligence Information Note issued by the Intellectual Property Office of Singapore (IPOS) was released in 2022 which aims to outline key IP issues that AI creators should be aware of, and provides an overview of how different types of IP rights can be used to protect different AI inventions.
- The Model AI Governance Framework for Agentic AI was published on 22 January 2026 by IMDA. This voluntary framework addresses the specific risks posed by autonomous AI agents. It provides practical guidance across four key areas, risk assessment and guardrails, meaningful human accountability, technical controls (including safety testing and safeguards against prompt injection or privilege escalation), and end-user responsibility. Although non-binding, it is intended to support secure and scalable deployment of AI agents, align with AI Verify governance tools, and mitigate legal and operational risks associated with autonomous decision-making and cascading system actions.

ARTIFICIAL INTELLIGENCE, CONT'D

Apart from the above industry-neutral guidelines, the following government agencies have issued industry-specific guidelines in relation to the use and development of AI in the legal, cybersecurity, financial and healthcare sectors:

- the Singapore Supreme Courts published the "Guide on the Use of Generative Artificial Intelligence Tools by Court Users"with effect from 1 October 2024 which sets out general principles and guidance in relation to the use of generative artificial intelligence tools in Court proceedings. The case of Tajudin bin Gulam Rasul and another v Suriaya bte Haja Mohideen [2025] SGHCR 33 addressed the professional duties of advocates and solicitors when relying on AI-assisted tools for research and drafting. The Court imposed a personal costs order against counsel who cited a fictitious case generated by a generative AI application, making it clear that Singapore lawyers must independently verify all material filed in court;
- the Principles to Promote Fairness, Ethics, Accountability and Transparency ("**FEAT**") in the Use of Artificial Intelligence and Data Analytics in Singapore's Financial Sector, was published in 2018 by the Monetary Authority of Singapore (MAS), for firms offering financial products and services with a set of foundational principles on the responsible use of AI and data analytics ("AIDA"); and
- the Artificial Intelligence in Healthcare Guidelines ("**AIHGle**"), which was published in 2021 by the Ministry of Health (MOH), the Health Sciences Authority (HSA) and the Integrated Health Information Systems (IHiS) to set out good practice for developers and implementers of AI in healthcare and complement the HSA's regulatory requirements for AI-based medical devices (AI-MDs).

Lastly, there is also no legislation relating to AI-related liability, unlike the EU Liability Rules for Artificial Intelligence. It is unlikely that the Singapore government will introduce any legislation relating to AI-related liability. In the context of autonomous vehicles, the Singapore government appears to take a position that issues of liability for AVs can be resolved through proof of fault and the common law as it is with accidents involving human-driven vehicles or other technologies such as autopilot systems for airplanes and navigational systems for maritime vessels, and product liability law to draw analogies from.

There is a reported judgment on whether the law of unilateral mistake in contract law can be extended to AI-enabled technology, where the Court of Appeal (the apex court in Singapore) in a rare 5-judge coram in 2020 had remarked that "[t]he law must be adapted to the new world of algorithmic programmes and artificial intelligence, in a way which gives rise to the results that reason and justice would lead one to expect. Singapore courts are reluctant to take a clear position regarding civil liability in relation to errors attributed to AI-enabled technology (in this case, a cryptocurrency exchange where trading was conducted via an algorithmic system) and have instead focused the analysis on the company's i.e. the human failure to make certain necessary changes to several critical operating systems on the technology.

It remains to be seen whether Singapore will legislate the series of guidelines and principles but it takes a broadly consistent approach with other major jurisdictions such as the EU, USA, Japan, Australia, China and UK in terms of the principles that apply to the use of AI.

EMPLOYEES/CONTRACTORS

Employees: Under the Singapore Employment Act, an employment relationship arises under a "contract of service", whether written or oral, express or implied, including apprenticeship agreements. Employers must provide employees employed for at least 14 continuous days with written key employment terms within 14 days of commencement. Employers are also required to comply with the statutory minimum conditions of service, and any less favourable contractual terms may be void to the extent of non-compliance.

Independent Contractors: The engagement of independent contractors is not governed under any specific legislation in Singapore. There is also no work for hire regime in Singapore. Therefore, each contract i.e. a "contract for service" should contain a clause covering the ownership and/or licensing of works made by such independent contractors. If silent, it would be governed by the default position under the relevant applicable laws depending on the type of work.

Central Provident Fund (CPF) Contribution: If the employer is employing a Singaporean or Singapore permanent resident under a contract of service, the employer is required to pay both the employer and employee's share of CPF contributions every month. The employer is entitled to recover the employee's share from the employee's wages. No CPF contribution is required for foreigners.

Supplementary Retirement Scheme (SRS): The SRS is a voluntary scheme to encourage employees and the self-employed to save for retirement over and above their CPF savings. The maximum amount to be contributed is subject to an income cap of SGD 102,000. Employers are allowed to contribute to their employees' SRS accounts, subject to certain contribution limits based on residency status. Employees will be taxable on these employer contributions, but will be allowed corresponding tax relief.

Termination: Either party to a contract of service may at any time give to the other party notice of intention to terminate the contract of service. The Singapore Employment Act provides for some restrictions on terminations of employees for employees covered under the Employment Act. This includes the following: (a) Minimum notice of termination, (b) Salary in lieu of notice of termination, (c) Termination without notice on the ground of willful breach by the other party of a condition of the contract of service, and (d) Dismissal on the grounds of misconduct or otherwise.

There are other restrictions on terminations of employees where the employees fall within certain categories such as female employees during their maternity leave and dismissal on the ground of age for employees who are below the minimum retirement age.

Instead, the employment contract typically sets out other rights relating to termination of employment. This includes restrictive covenants, garden leave and other clauses relating to termination.

CONSUMER PROTECTION

The main legislation is the Consumer Protection (Fair Trading) Act 2003 ("**CPFTA**") known as the "Lemon Law" which was enacted to protect consumers against unfair practices and to give consumers additional rights in respect of goods that do not conform to contract, and for matters connected therewith. Under the CPFTA, the Consumers Association of Singapore ("**CASE**") and Singapore Tourism Board ("**STB**") are the first points of contact for consumer complaints. CASE will assist aggrieved consumers to obtain redress, and in some cases, compensation through negotiation and/or mediation. The CPFTA defines what is an "unfair practice". To help businesses and consumers better understand what constitutes an unfair practice, the Second Schedule to the CPFTA sets out a non-exhaustive list of unfair practices.

CASE has established the Advertising Standards Authority of Singapore ("ASAS") which has published a Singapore Code of Advertising Practice ("SCAP") which is the guiding principle that companies may wish to comply with especially on the following:

- advertising food and beverage products to children,
- social media guidelines,
- gambling advertisements and promotions, and
- the display of full prices.

There are also other sector-specific advisories which may be applicable to protect consumers such as MAS' issuance of Guidelines On Provision Of Digital Payment Token Services To The Public ("**PS-G02**") on 17 January 2022 to all Digital Payment Tokens ("**DPTs**") service providers to ensure that their marketing campaigns, advertisements and promotions for buying or selling of DPTs or facilitating the exchange of DPTs are consistent with the risk disclosures under the PSA, which requires that all actual and potential customers be provided with a risk warning statement highlighting the risks associated with trading in DPTs.

Further, consumers are protected under the Unfair Contract Terms Act ("**UCTA**") in Singapore which was enacted to impose further limits on the extent to which civil liability for breach of contract, or for negligence or other breach of duty, can be avoided by means of contract terms and otherwise.

SINGAPORE

TERMS OF SERVICE

Terms of services are generally enforceable in Singapore whether as "click-wrap", "shrink-wrap" or "browse-wrap" method, however, it is subject to common law principles under contract law such as offer and acceptance.

Further, online transactions are regulated by the Electronic Transactions Act in Singapore which recognises the formation of contracts through online and electronic means and enforceability of these contracts.

It may also be subject to the UCTA where for the company uses any standard terms of service to:

- Exclude its own liability for breaches of terms,
- Excluding or limiting its own liability for breaches of terms, and
- Relying on a term to render a different kind of service from that which was reasonably expected of him, or not service at all,
- unless the standard contractual term is reasonable.

Also, the Sales of Goods Act applies to all contracts for the supply of goods (including digital products) but does not apply to supply of services.

In practice, the consumer should have prior notice of the terms of service. Therefore, it would be prudent to provide clear terms of service on a website or mobile app, or specific linking and reference to such terms when a consumer places an order.

Terms of service must also incorporate some sort of agreement or incorporation language (i.e. you agree to the terms of service through your continued use of the website / app). Where possible, it would be preferable to obtain express agreement through a clear action (i.e. a checkbox or button where the consumer can select "I agree to the terms of service"), particularly where any limitation of liability, indemnification, liquidated damages, or other provisions that require agreement from the consumer are included in such terms of service.

TAX/FUNDING

Singapore start-ups are generally organised as private companies or private exempt companies. We set out a summary of relevant tax regulations which are relevant to startup investors, depending on whether the investor is an individual or company.

Individual Tax

In Singapore, the tax residency of a company is determined by the residency, except for such temporary absences as may be reasonable and not inconsistent with a claim to be resident in Singapore.

Personal Income Tax

Income is taxable when it accrues in or is derived from Singapore, whether or not the individual is resident in Singapore. Income derived from sources outside Singapore is only taxable if it is received in Singapore by a resident individual through a partnership in Singapore.

Individual - Tax credits and incentives

Resident individuals are entitled to certain personal reliefs and deductions and are subject to graduated tax rates ranging from 0% to 24%. Non-resident individuals are not entitled to any personal reliefs and deductions and are subject to tax at a flat rate of 24%. As a concession, employment income of non-residents is taxed at the higher of a flat rate of 15% or the graduated resident rates with personal reliefs. This concession does not apply to non-resident directors.

TAX/FUNDING, CONT'D

Corporate Tax

Corporate Income Tax: In Singapore, the tax residency of a company is determined by the place where the business is controlled and managed. If the control and management of the company is not exercised in Singapore, the company is considered a non-resident for tax purposes. It is important to note that the place of incorporation does not necessarily determine the tax residency of a company.

Singapore-incorporated companies and foreign companies operating in Singapore are subject to a flat tax at a rate of 17%. Corporate Income Tax is assessed on a preceding year basis in Singapore.

Withholding Tax: The withholding tax ("**WHT**") only applies to non-resident companies or individuals who have sourced an income from Singapore. Unless a lower treaty rate applies, interest on loans and rentals from movable property are subject to WHT at the rate of 15%. Royalty payments are subject to WHT at the rate of 10%. Certain payments made to non-resident companies are exempt from Singapore withholding tax. There is no need to withhold tax on dividend payments, even if there are withholding tax rates ascribed to dividends in some of our Avoidance of Double Taxation Agreements (DTAs). Singapore currently does **not** impose withholding tax on dividends.

Withholding tax is waived for all payments under Sections 12(6) and 12(7) of the Income Tax Act which are made to Singapore branches of non-resident companies. Examples of such payments are interest, commission, royalties or management fees. The waiver is intended to reduce compliance costs of payers making payments to Singapore branches of non-resident companies. Singapore branches of non-resident companies are, however, still taxed on such payments and are required to declare them in their annual Corporate Income Tax Returns.

Capital Gains Tax: Generally, Singapore does not impose a capital gains tax on the sale of shares, financial instruments, properties, intangible assets, etc. The following gains are generally not taxable (a) Gains derived from the sale of a property in Singapore as it is a capital gain; (b) Profits or losses derived from the buying and selling of shares or other financial instruments (including digital tokens) are generally viewed as personal investments; and (c) Payouts from insurance policies as they are capital receipts. However, the gains may be taxable if you buy and sell property with a profit-seeking motive or deemed to be trading in properties.

Gains derived by a company from the disposal of ordinary shares, and the disposal of preference shares accounted for as equity on or after 1 January 2026, will not be taxed if the company has held at least 20% of the ordinary shares in the investee company for a continuous period of at least 24 months prior to the disposal. For disposal gains derived on or after 1 January 2026, group ownership of the shares may be included to determine if the minimum 20% ownership threshold requirement is met. This exemption does not apply to gains derived by an insurance company or the disposals of shares in certain companies that trade in or hold immovable properties, as well as to disposals of unlisted shares in companies in the business of trading, holding, or developing immovable properties in Singapore or abroad.

Notwithstanding the foregoing, gains from the disposal of foreign assets by any legal person (other than an individual), general partnership, limited partnership, or trust that does not meet the requisite economic substance requirements and is a member of a relevant group (i.e. its assets, liabilities, income, expenses, and cash flows are included in consolidated financial statements prepared by the parent entity of the group) are taxable when received in Singapore.

Non-income tax for stocks and shares: Instruments effecting the transfer of stocks and shares are subject to stamp duty of 0.2% on the purchase price or market value of the shares transferred, whichever is the higher.

TAX/FUNDING, CONT'D

Corporate Tax, CONT'D

Non-income tax for leases: Leases attract duty at 0.4% of the total rent (for leases of up to four years) or 0.4% of four times the average annual rent for the period of the lease (for leases longer than four years), but leases with average annual rents not exceeding SGD 1,000 are exempt from stamp duty.

Goods and Services Tax ("GST"): GST-registered businesses are required to charge GST on all sales of goods and services regulated in Singapore. GST is charged at 9% on the supply of goods and services made in Singapore by a taxable person in the course or furtherance of one's business and on the importation of goods into Singapore. The only exemptions from GST are prescribed financial services, the sale or rental of residential properties, the sale of digital payment tokens, and the import and local supply of prescribed investment precious metals. Zero-rating (where GST is applied at 0%) only applies to the export of goods and international services (subject to conditions).

Excise Tax: Excise duties are imposed on certain intoxicating liquors, tobacco products, motor vehicles, and petroleum products. Duties are also imposed on gambling and other games of chance.

Property Tax: Property tax is levied annually on the value of houses, land, buildings, or tenements. For non-residential properties, such as commercial and industrial buildings and land, the tax rate is 10%. For residential properties, owner-occupier tax rates range from 0% to 32% and non-owner occupier tax rates range from 12% to 36%. The tax rates depend on the annual value bands, which are subject to periodic revisions. A one-off property tax rebate 15% for Owner-Occupied HDB flats, and 10%, capped at SGD 500, for Owner-Occupied private residential properties is provided in 2026.

Corporate - Tax credits and incentives

We list some relevant examples applicable for startup investors:

Financial Sector Incentive (FSI) scheme: Under the FSI scheme, income from certain high growth, high-value-added activities, such as services and transactions relating to the bond market, derivatives market, equity market, and credit facilities syndication, may be taxed at 5%, while a broader range of financial activities will qualify for a 13.5% tax rate. The concessionary tax rates available under the FSI scheme will be revised to either 10% or 13.5% for new awards and renewals of existing awards approved on or after 1 January 2024. A new 15% concessionary tax rate tier was also introduced from 19 February 2025.

Singapore Variable Capital Companies (VCC): A Variable Capital Company (VCC) is a fund vehicle that may be structured as a single fund or an umbrella fund with multiple sub-funds and is treated as a single company for tax purposes. Qualifying VCCs benefit from applicable fund tax exemptions and GST remission schemes. A 10% concessionary tax rate under FSI incentive for fund managers has been extended to approved fund managers managing an incentivised VCC.

Enterprise Innovation Scheme (EIS): For the years of assessment 2024 to 2028, businesses that engage in the following qualifying activities will be allowed a 400% tax deduction or allowances for qualifying expenditure. Qualifying businesses may opt to convert the above tax deductions to a cash payout. They would receive, in lieu of the deduction, a non-taxable cash payout of 20% of total qualifying expenditure of up to SGD 100,000 across all qualifying activities (i.e. maximum cash payout of SGD 20,000 per year).

Refundable Investment Credit (RIC): Introduced in Budget 2024, the RIC seeks to enhance Singapore's attractiveness for investments. The RIC encourages companies to make sizeable investments that bring substantive economic activities to Singapore, in key economic sectors and new growth areas.

TAX/FUNDING, CONT'D

Corporate - Tax credits and incentives, CONT'D

Research and Development (R&D) Tax Deductions: Companies can claim a tax deduction on qualifying R&D expenditure are provided for 100% deduction, additional 50% deduction from Years of Assessment (YAs) 2009 to 2018; additional 150% deduction from YAs 2019 to 2025), and PIC deduction of the Income Tax Act. In lieu of tax deductions and/ or allowances, eligible businesses may opt to convert up to SGD 100,000 of the total qualifying expenditure across all the qualifying activities under the EIS for each YA into cash at a conversion rate of 20%. The non-taxable cash payout is capped at SGD 20,000 per YA from YAs 2024 to 2028.

Intellectual Property Development Incentive (IDI): The IDI scheme was introduced to encourage the use and commercialisation of IP arising from R&D activities of the taxpayer. An approved IDI company will be eligible for a reduced tax rate of either 5%, 10%, or 15% on a percentage of qualifying income derived from the commercialisation of certain IP. The concessionary tax rate will increase at regular intervals as prescribed in the Income Tax Act.

Mergers and acquisitions (M&A) allowance: A Singapore company that makes a qualifying acquisition of the ordinary shares of another company may enjoy an M&A allowance on the purchase consideration. Under the M&A scheme, an M&A allowance is granted to a company (the acquiring company) that acquires the ordinary shares of another company (the target company). Companies must meet certain conditions to remain eligible for M&A allowance for each Year of Assessment during the 5-year writing-down period. As announced in Budget 2025, the M&A scheme will be extended for another 5 years until 31 December 2030.

Funding

A list of funding agencies and support schemes in Singapore is accessible via the GoBusiness Grants website. We list some of the key contact points and programmes in Singapore for startups:

Enterprise Singapore ("ESG") is a Singapore government agency that supports the development of local businesses to assist them in innovation, upgrading and expanding internationally:

Market Readiness Assistance (MRA) Grant	Startup SG Equity / Stage One
Enterprise Development Grant (EDG)	Productivity Solutions Grant (PSG)
Startup SG Founder Grant	Global Innovation Alliance (GIA)
Partnerships for Capability Transformation (PACT) Scheme	Enterprise Sustainability Programme

TAX/FUNDING, CONT'D

Funding, CONT'D

ESG also collaborates with other agencies such as the **National Research Foundation** ("**NRF**") and **Agency for Science, Technology and Research ("A*STAR"), as well as Singapore Economic Development Board** ("**EDB**"):

Research, Innovation and Enterprise (RIE) 2030	Tech@SG Programme

Singapore Centre for Social Enterprise ("**raiSE**") is an organisation that provides support for the social enterprise sector through grants such as VentureForGood Grant.

Infocomm Media Development Authority ("**IMDA**") statutory board under the Ministry of Digital Development and Information ("MDDI") that assists businesses in leveraging inclusive digitalisation opportunities through the Advanced Digital Solutions.

In addition, with over 500 venture capital firms and more than 220 incubators and accelerators, Singapore has emerged as the premier startup investment destination in Southeast Asia, accounting for over 70 per cent of all venture capital raised in the region. Angel investors also provide seed funding in exchange for equity.

WHAT ELSE?

Banking: There are generally no restrictions imposed on both resident and non-resident companies in holding bank accounts. Savings accounts are, however, generally not offered in Singapore to companies. Opening a bank account is typically a straightforward process, subject to all requested information and documents provided. The extent of documentation required largely depends on each bank's Know Your Client / Anti Money Laundering requirements. Investors with good credit standing should generally be able to utilise a wide range of credit facilities in Singapore. These credit facilities include overdrafts, and short-term advances to medium and long-term loans, import and export financing facilities, etc.

From recent experience, it is increasingly more difficult for companies to open a bank account in Singapore unless there is adequate substance, which includes having local employees, dedicated office space and evidence of customers who will be invoiced from Singapore.



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SLOVENIA

LEGAL FOUNDATIONS

Slovenia has a civil law legal system, rooted in the Continental European civil law tradition. Its legal principles and rules are derived from statutes and codes, which are enacted by state authorities, rather than from case law. Additionally, other types of general legal acts may be adopted at both state and local government levels.

Nevertheless, there are cases in which common law may be applied, especially in the contractual relations of business entities – for example, Article 12 of the Slovenian Code of Obligations stipulates that business customs, usages and practices established between the parties shall be taken into account when assessing the required conduct and its effects.

Similarly, the case-law of higher-instance courts, although not a mandatory source of law, is generally observed and followed by the lower-instance courts.

CORPORATE STRUCTURES

The fundamental regulation in the area of company law in the Republic of Slovenia is the Companies Act, which sets out the basic rules for the establishment and operation of companies, sole proprietorships, related parties, economic interest groupings, branches of foreign companies and their status transformation.

Although there are several forms of both capital and personal companies, the most appropriate and widely used for start-ups are the limited liability company (družba z omejeno odgovornostjo) and the joint-stock company (delniška družba).

Limited liability company

Incorporation
An LLC can be established by one or more domestic or foreign natural or legal persons who adopt articles of association, in the form of a notarial deed. An LLC combines the positive features of capital and personal companies – it has a simple form, relations between shareholders are more personal, it combines limited liability of shareholders and freedom of decision-making. Ownership of LCC is divided into shares. Multiple persons can be co-owners of the same share in the LLC.

CORPORATE STRUCTURES, CONT'D

Limited liability company, CONT'D

Liability
Shareholders of an LLC are not personally liable for the company's obligations. While their liability is limited to the amount of their initial contributions, the company is liable for its obligations with all its assets (exception: separate personhood may be void by way of rules on "piercing of the corporate veil").

Shareholders
There is a hard cap on the number of shareholders. An LLC can have a maximum of 50 shareholders, exceptionally more – if the Ministry of the Economy, Tourism and Sport allows it.

Registering new shareholders requires an amendment to the articles of association. The process usually goes as follows:

- a share transfer agreement must be concluded in the form of a notarial deed;
- existing shareholders must be notified and waivers of pre-emptive right acquired (unless articles of association exclude it);
- articles of association need to be amended to reflect the new ownership;
- transfer of the business share is registered in the court register.

Capital requirements / business shares
The share capital consists of the initial (and subsequent) contributions of the shareholders and must amount to at least EUR 7,500. The minimum capital contribution is EUR 50.00, which can be paid in cash or in kind. If the value of an in-kind contribution exceeds EUR 100,000, its valuation must be carried out by an auditor.

Pre-emptive right of other partners

A shareholder who intends to sell his business share must notify the other shareholders in writing and offer them his share for sale, as they have a right of first refusal. The pre-emptive right of other shareholders can be limited in the articles of association. If none of the shareholders asserts a right of pre-emption on the share, it can be offered to a third party.

Vinculation clauses

A vinculation clause is a provision that mandates the consent of either the majority or all the shareholders for the sale of a business share to a third party. Such clause may be included in the articles of association but is otherwise not prescribed by law.

ADVANTAGES

- shareholders are not liable for the company's obligations;
- flexibility in internal governance;
- ability to exclude voting rights of certain shareholders;
- no hard-cap on the number of shareholders (Ministry approval required above 50).

DISADVANTAGES

- a maximum of 50 shareholders (unless the Ministry's approval is granted);
- adding new shareholders comes at a greater cost (amendment to articles of association).

CORPORATE STRUCTURES, CONT'D

Joint-stock company

Incorporation:
A joint-stock company can be established by one or more domestic or foreign natural or legal persons who adopt articles of incorporation, in the form of a notarial deed. There are two ways of establishing a joint-stock company: simultaneous establishment or successive establishment (depending on whether closed access or open access is preferred).

Liability:
Shareholders of a joint-stock company are not personally liable for the company's obligations. While their liability is limited to the amount they have invested in purchasing shares, the company is liable for its obligations with all its assets (exception: separate personhood may be void by way of rules on "piercing of the corporate veil").

Capital requirements / shares:
The minimum amount of share capital is EUR 25,000. Shares can be paid in cash or in kind. At least 1/3 of the share capital must consist of shares paid in cash, and up to 2/3 can be paid in kind. Shares can only be issued in dematerialized form and may be formed as shares with a nominal amount or as no-par shares. The company may not have both forms of shares at the same time. The minimum nominal amount of a share is EUR 1.00 (higher nominal amounts must be in multiples of EUR 1.00).

Based on the rights derived from the shares, shares may be issued as ordinary (regular) and preferred (preferential). Only preferred shares may be issued without voting rights, but the company may not have more than half of such shares in the composition of the share capital. Issuing shares that grant varying numbers of votes, despite having an equal share in the share capital, is explicitly prohibited.

Management:
The law prescribes the formation of bodies, their powers, and the relationship between them with mandatory norms. However, the company is free to choose either a two-tier system of company management with a management board and a supervisory board or a one-tier system with a board of directors. Both systems have in common that the decision-making and management functions are separate and take place in two bodies. The decision-making function takes place in the general meeting, in which all shareholders participate, the management function takes place in the board or the board of directors.

In a single-tier system, the company is governed only by the general assembly and the board of directors. In a two-tier system, the company is governed by three bodies – the general assembly, the board and the supervisory board. The powers of the bodies are exhaustively listed in the law. The bodies are independent from each other, decisions that are within the competence of one body cannot be taken by another, nor can one body change the decisions of another. There is also no hierarchy between them, except in terms of appointment – the general assembly appoints the supervisory board, the supervisory board appoints the board.

Formation requirements:
- Management board: at least 1 director;
- Supervisory board: minimum of 3 members;
- Board of directors: minimum of 3 directors; it may elect executive directors.

CORPORATE STRUCTURES, CONT'D

Joint-stock company, CONT'D

Management, CONT'D:

ADVANTAGES

- shareholders are not liable for the company's obligations;
- there is a possibility of entering into legal transactions between the company and its shareholders;
- flexibility in internal governance;
- easy to register new shareholders;
- ability to issue different classes of shares;
- no hard-cap on the number of shareholders.

DISADVANTAGES

- it has a more complex incorporation process;
- the majority of statutory rules cannot be derogated from;
- rights from shares are indivisible;
- no interim dividends can be paid out in the first year of establishment;
- brokerage account set up & the KYC process involved;
- brokerage account costs for participants.

ENTERING THE COUNTRY

A foreign direct investment must be notified to the Ministry of the Economy, Tourism and Sport if the following three conditions are cumulatively met:

1. the transaction is **carried out by a foreign investor**;
2. the transaction is a foreign direct investment through which the investor acquires **at least 10% of the capital or voting rights** in a Slovenian company; and
3. **the foreign direct investment may affect the security or public order of the Republic of Slovenia**, in particular in cases where the target company is actually and predominantly active in one of the listed "critical areas":
    - critical infrastructure, whether physical or virtual, including infrastructure in the energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure and sensitive facilities, as well as land and real estate essential for the use of such infrastructure;
    - critical technology and dual-use goods, including artificial intelligence, robotics, semiconductors, cyber security, aerospace and defence, energy storage, quantum and nuclear technologies, as well as nanotechnology and biotechnology;
    - supply of critical resources, including energy or raw materials, and food security;
    - access to, or the ability to control, sensitive information, including personal data;
    - freedom and pluralism of the media; or
    - projects or programmes of interest to the EU as defined in Annex I of Regulation 2019/452/EU.

If all three conditions are met, the foreign direct investment must be notified to the Ministry by either the foreign investor, the target company, or the acquired company **within 15 days of the conclusion of the share purchase agreement by which the foreign investor acquires, directly or indirectly, at least 10% of the capital or voting rights** in a company established in the Republic of Slovenia.

ENTERING THE COUNTRY, CONT'D

Under local law, both direct and indirect ownership fall within the scope of the screening regulation – i.e. the definition of a foreign investor includes also a legal person established in a third country who holds, directly or indirectly, at least 10% of the capital or of the voting rights in a legal person established in an EU Member State and who intends to make a direct foreign investment in the Republic of Slovenia or has already made such an investment. A foreign direct investment is further defined as an investment made by a foreign investor, the purpose of which is to establish or maintain permanent and direct or indirect links between the foreign investor and a company established in the Republic of Slovenia, by means of the first and any subsequent acquisition, directly or indirectly, of at least 10% of the capital or voting rights of the company.

Failure to notify may result in a fine ranging between EUR 100,000 and EUR 250,000 EUR for small companies. A fine between EUR 200,000 and EUR 500,000 may be imposed on medium-sized and large companies. Within a legal entity, the person responsible for such notification may be fined up to EUR 10,000.

INTELLECTUAL PROPERTY

The Slovenian Intellectual Property Office (SIPO) plays a crucial role in the country's intellectual property framework, as certain IP rights can only be obtained through an administrative procedure. However, before engaging with IP rights, start-ups should conduct thorough IP due diligence to assess ownership, validity, and potential risks associated with their intellectual property assets. It is important to note that SIPO's primary function is to handle procedures for granting national patents and registering national trademarks and designs. It does not provide legal or business advice on specific IP rights.

Intellectual property rights that can be registered

Trademarks

Object of protection: A trademark is a legally protected sign if such a sign makes the goods or services of a particular undertaking distinguishable from those of another undertaking and can be displayed in the register in such a manner as to enable the competent authorities and the public to determine clearly and precisely the subject matter of the protection.

Procedure: The trademark can be registered, depending on the planned territorial protection. The applications can therefore be submitted to either (i) SIPO, (ii) the European Union Intellectual Property Office (EUIPO), or (iii) the World Intellectual Property Organization (WIPO) through the Madrid System. The procedure for registering a trademark in Slovenia starts with an application to the SIPO. SIPO reviews the application and registers the trademark if all minimum trademark requirements as mentioned are met. SIPO does not carry out a full examination of trademark applications, i.e. whether the possible registration of a trademark would infringe the earlier rights of others. This will only be carried out if there is an opposition filed by the holder of the earlier right. With publication in the Trademark Gazette, the three-month opposition period begins.

Duration of protection: The validity of a trademark is 10 years from the date of filing of the application and may be extended indefinitely for the same period.

Costs: Application costs for three classes amount to EUR 250 (EUR 70 is charged per additional class). The fees do not include possible legal representative fees.

SLOVENIA

INTELLECTUAL PROPERTY, CONT'D

Patent

Object of protection: A patent is an exclusive right of a natural or legal person for an invention that involves an inventive step and is industrially applicable. This requires that the invention is novel, not obvious to a skilled professional and can be applied in industry. Novelty is attributed to a technical solution when it is not within the existing state of the art, implying that it has not been disclosed to the public through oral or written descriptions, use, or any other means prior to the patent application's filing date. Involvement of an inventive step is determined by an expert's recognition that the subject of an invention is not a result of the state of the art.

Procedure: Depending on the planned territorial protection, the patent can be registered with (i) SIPO, (ii) the European Patent Office (EPO) or (iii) WIPO. The registration procedures before these offices differ from each other, particularly with regard to costs.

Duration of protection: The term of the patent is 20 years, provided the holder pays maintenance fees. Before the end of the ninth year of the patent's validity, the holder must submit written evidence to the Office that the patented invention fulfils all the substantive criteria, i.e. novelty, an inventive step and industrial applicability. If the written evidence is not submitted in due time, the validity of the patent lapses irrevocably after the tenth year. It therefore is in essence a utility model.

Costs: The basic application cost for patents for the first three years is EUR 110. In addition, fees of the legal and technical representative apply.

Employee invention and inventor bonus: The Slovenian Employment-Related Inventions Act defines the invention takeover from the workers who had created it in the course of their employment. In general, the employer has three months to take over such an invention from the workers or not. The Act also stipulates that the worker receives a bonus. This is based mainly on the economic usefulness of his invention, the employee's duties with the employer and the employer's share in the creation of the invention.

Designs

Object of protection: An industrial design is an exclusive right of a natural or legal person protecting the design of an industrial or craft product. The design of a product is defined by the features of the lines, colours, shape, texture and/or materials of the product itself and/or its ornamentation.

Procedure: Design applications can be submitted to either (i) SIPO, (ii) EUIPO, or (iii) WIPO through the Hague System. National designs may be registered with SIPO. To obtain protection throughout the EU, a Community Design may be registered with EUIPO. Applicants can also file an international application in accordance with the Hague Agreement for industrial designs. With a single application, protection can be obtained in more than 50 contracting states party to these agreements at the same time, i.e. in all of them or only in those indicated by the applicant in the application form. The acquisition of protection has the same effect as if the application had been filed separately in each country and all the formalities for obtaining protection under national legislation had been fulfilled.

Duration of protection: The term of an industrial design is one or more periods of five years from the date of filing of the application, up to a total term of 25 years. It may be renewed every five years on payment of the appropriate fees.

Costs: Application costs for designs amount to EUR 80. The fees do not include possible legal representative fees.

INTELLECTUAL PROPERTY, CONT'D

Intellectual property rights that require no registration

Copyright

Object of protection: Copyright works are individual intellectual creations in the fields of literature, science and the arts, which can be expressed in any mode. Copyright belongs to the author by virtue of the creation of the work. This means that no formalities such as registration are needed for a work to enjoy copyright protection.

Rights conferred by the protection: The essence of copyright is that it constitutes a monopoly of the author over the exploitation of their work. As such, copyright guarantees the author:

- respect for their moral interests and
- respect for the economic benefits of the exploitation of their work.

In the first case, we are talking about moral rights, which protect the author with respect to their intellectual and personal ties to the work. Under moral rights, the author enjoys the exclusive right of first disclosure, recognition of authorship, respect for the work and the right of withdrawal.

In the second case, we are talking about economic rights, which protect the author's economic interests by giving the author an exclusive right to authorise or prohibit the exploitation of their work.

Duration of protection: Moral rights are perpetual. Economic rights last for the lifetime of the author and last, for his/her beneficiaries, 70 years after his/her death.

Trade Secrets

Object of protection: Slovenian Trade Secrets Act has implemented the Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016, which defines Trade Secrets as information that meets all of the following requirements:

- it is a secret in the sense that it is not generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- it has commercial value;
- reasonable steps have been taken under the circumstances, by the person lawfully in control of the information, to keep it secret.

Duration of protection: Trade secrets confer on its holder a protection unlimited in time, as long as the secrecy is maintained.

SLOVENIA

DATA PROTECTION/PRIVACY

The GDPR (Regulation (EU) 2016/679) applies since 25 May 2018. The GDPR gives some leeway to EU Member States to implement a few provisions (implemented through the Slovenian Personal Data Protection Act) such as:

- The age for child's consent in relation to information society services has been lowered from 16 years to 15 years.
- Video surveillance can only be carried out for purposes that are stipulated in the Personal Data Protection Act, whereas the conditions for video surveillance of workplace are more strictly regulated. The Act also stipulates specifically the content of the notice on video surveillance. Video surveillance of passenger traffic and video surveillance in public areas is newly regulated.
- The processing of biometric data contrary to the provisions of Personal Data Protection Act is prohibited. Another law may provide for the processing of biometric personal data and the conditions for its use but may also restrict the use of biometric personal data. The processing of biometric personal data in the private sector may only be carried out in accordance with the statutory provisions if it is strictly necessary for the performance of the activity, for the safety of persons, the security of property, the protection of classified information or the protection of business secrets. A private sector entity may also process biometric personal data to protect the accuracy of the identity of its customers. Before the processing of biometric personal data begins, individuals must be informed in writing and, in the case of employees, the controller must carry out prior consultation with the employees on the proportionality of the processing. A private-sector entity intending to process biometric personal data must, prior to commencing such processing, submit to the supervisory authority a description of the envisaged processing operations together with the reasons for their introduction. The law also provides that in the context of marketing or similar other commercial activities, biometric personal data may not be requested, obtained or further processed in exchange for certain services, even if those services are free of charge to the data subject.

In relation to unsolicited communications via electronic means and cookies, the provisions of the Slovenian Electronic Communications Act must be taken into consideration as well.

The Slovenian Information Commissioner (Informacijski pooblaščenec) is the regulatory authority in relation to data protection, overseeing all types of processing relating to the GDPR and the abovementioned acts. The Information Commissioner also regularly issues guidelines and opinions on different areas of data protection.

ARTIFICIAL INTELLIGENCE

No deviations from the EU's AI Act to note.

SLOVENIA

EMPLOYEES/CONTRACTORS

General: Employer and employee must conclude an employment agreement, which stipulates their rights and obligations set forth by mandatory law, collective agreements, and employer's by-laws. A written employment agreement is a must and as a rule the employment agreement should be concluded for indefinite time. Employment agreements for a limited period are possible if one of the reasons stipulated in the law exists. There are restrictions for the maximal duration of the agreements entered for a limited period, provisions prohibiting hidden employment relationships and so forth. The parties may agree on probation work which may last up to six months.

Entry into an employment agreement must be followed by the registration of employment into social schemes, which must be performed by the employer at the latest upon commencement of work.

Termination: Employees are very well protected. They can challenge unlawful terminations within 30 days since the termination has been served.

In addition, certain groups of employees (e.g. works council members, pregnant employees, employees on parental leave or with recognized disability status) enjoy special termination protection as well as certain protection which is not related to termination (e.g. ordering of overtime).

There are five different grounds for unilateral ordinary termination by the employer: (i) termination due to business reasons, (ii) termination due to incapacity, (iii) termination caused by employee's fault, (iv) termination due to inability to carry out work in line with disability regulations, and (v) termination due to unsuccessful probation work. The employer may also unilaterally terminate the employment agreement by giving an extraordinary termination due to severe violation of employment obligations. The Slovenian Employment Relationship Act stipulates the termination procedure, remedies, and other rights of the employee as well as the related termination notice periods that the employer must adhere to in each of these situations.

Contractors: The main risk to be aware of when hiring contractors in Slovenia is that the contractor may be reclassified as an employee due to the nature of the relationship between company and contractor. It is very important that the so-called "elements of employment relationship" do not exist. Note that it is important how the relationship is actually implemented by the parties in practice and not only what the written agreement stipulates.

Works Made in the Course of Employment: Material copyrights and other rights generated by an employee while carrying out their work for an employer are by default assigned to the employer without further compensation or documentation needed for 10 years from the completion of work. The parties can also agree to a longer period, subject to payment of appropriate compensation. However, the mentioned provisions do not apply in case of software development agreements. The Slovenian regulation includes a special exemption, namely where a computer program is created by an employee in the execution of his duties or following instructions given by his employer, or where it is created by an author under a contract, it is deemed that the economic rights and other rights of the author to such a software are transferred to the employer or person commissioning the work, exclusively and without limitations, unless otherwise provided by contract.

Works Made in the Course of Contracting Relations: Where the entity decides to appoint students or contractors for provision of certain services (there are strict provisions relating to the prohibition of service contract which are in their substance employment agreements), each agreement should contain a clause covering the licensing of works made by such contractual partners. Such a clause should be as specific as possible, in order to ensure that relevant intellectual property rights have been assigned.

SLOVENIA

CONSUMER PROTECTION

Slovenian consumer protection law is quite **strict** and is mostly based on EU legislation. It is mainly regulated by the Consumer Protection Act, which applies to all activities targeted at consumers in the territory of the Republic of Slovenia, regardless of where the entity is domiciled.

The Consumer Protection Act regulates **distance selling contracts** (e.g. online sales) and imposes various pre-contractual information obligations on the trader. These include, for example, the obligation for traders to provide information on the consumer's right to withdraw from the contract within 14 days without giving any reasons. This right can only be limited in certain exemptions. Furthermore, if the consumer is not adequately informed about the right of withdrawal, the withdrawal period is automatically extended for up to one year.

In addition to the Public Use of the Slovene Language Act, the Consumer Protection Act also sets out **language requirements**, namely that the trader must conduct its business with Slovenian consumers in the Slovenian language (and in the areas of the Italian and Hungarian minorities, also in the language of the respective minority). When labelling goods, services and digital content, the trader must provide the Slovenian consumers with the necessary information on the characteristics, conditions of sale, use and purpose of the goods, services and digital content in a language easily understandable to consumers in the territory of the Republic of Slovenia (in principle, the Slovenian language), or the company may also use commonly understandable symbols and images instead of text.

The Consumer Protection Act prohibits **unfair commercial practices**, i.e. misleading or aggressive practices that distort or are likely to distort the economic behavior of the average consumer, and contains a list of the so-called "black-listed" practices that are always considered unfair. In addition, the Act sets out the obligation of traders to ensure that goods are of satisfactory quality and safe for use, contains the provisions on the mandatory one-year warranty for technical goods and sets out the rights of consumers in the event of defective goods (i.e. repair, replacement, compensation).

Advertising is subject to the provisions of the Consumer Protection Act, which apply to both B2C and B2B advertising activities. For direct marketing, the provisions of the Slovenian Electronic Communications Act must also be taken into account, which require the explicit consent of the consumer for such marketing activities. Otherwise, advertising is subject to the Slovenian Advertising Code, a self-regulatory tool in the advertising industry. It is not legally binding, however, if the Advertising Tribunal finds that the advertisement does not comply with the Slovenian Advertising Code, the Advertising Tribunal may request the advertiser to correct or withdraw the disputed advertisement or file a motion or report with the Market Inspectorate.

Enforcement of the Consumer Protection Act is primarily the responsibility of the Market Inspectorate, which can impose fines of up to EUR 50,000 depending on the seriousness of the offence. If the offence constitutes a widespread infringement under Regulation (EU) 2017/2394, the Inspectorate may also impose fines of up to 5% of a company's annual turnover in cases involving invalid clauses in terms and conditions, unfair commercial practices and certain other cases.

SLOVENIA

TERMS OF SERVICE

In B2B transactions, the provisions of the Slovenian Obligations Code apply, according to which the terms of service established by one party must be published in the usual manner and are only binding on the other party if they were aware or should have been aware of them at the time the contract was concluded. The general terms that are contrary to the purpose of the contract or good commercial practice are null and void.

In B2C transactions, the terms of service must be in clear and intelligible language and consumers are bound by the terms of service only if they have been informed of the full text before concluding the contract. This requires the trader to expressly bring the terms of service to the consumer's attention and ensure that they are easily accessible to the consumer. The online terms of service are preferably communicated to the consumer via a tick-box where the consumer explicitly acknowledges that they have read, understood and agree to the terms of service.

Unclear contractual terms are interpreted in favor of the consumer, and unfair contractual terms are null and void. The Slovenian Consumer Protection Act provides that a contractual term shall be considered unfair if it:

- causes a significant imbalance in the contractual rights and obligations of the parties to the detriment of the consumer; or
- causes the performance of the contract to be unreasonably unfavorable to the consumer; or
- causes the performance of the contract to be substantially different from what the consumer reasonably expected; or
- is contrary to the principle of good faith and fair dealing.

If (at least) one of the above conditions is met, the following clauses in particular are considered to be unfair contractual terms:

- excessive unilateral termination clause in favor of the trader;
- one-sided rights of the trader to change the material contractual terms, price or characteristics of the goods, services or digital content;
- exclusion of liability for death, personal injury, gross negligence, willful misconduct, defective goods;
- consumer's waiver of objections based on nullity, voidability, non-performance or improper performance of the contract;
- securing an unreasonably long period of time for the fulfilment of the consumer's order;
- limitation or exclusion of the consumer's right to legal remedy and access to evidence;
- renewal of the contract for a fixed period, if the consumer has an unreasonably short period to express their will not to extend the contract;
- contractual penalty in favor of the trader;
- shifting the burden of proof to the consumer, which, under the applicable law, is borne by the trader, etc.

If the trader imposes unfair contractual terms on the consumer, the trader may be fined between EUR 5,000 to EUR 50,000.

SLOVENIA

TAX/FUNDING

Foreign investors (companies) pay no tax in Slovenia on their profits upon exiting the shareholder structure of a Slovenian startup.

All companies in Slovenia (including startups) are subject to 22% corporate income tax. This is a state corporate tax, and no additional municipality corporate taxes apply.

Tax losses can be carried forward and utilized in the next five business years.

There is no withholding tax for domestic B2B payments in Slovenia.

There are a high investment allowance (40% premium on investment expenses) and high R&D allowance (100% premium on investment expenses) available to all companies investing in equipment and R&D (this is not a startup specific item).

Slovenian VAT is based on EU VAT Directive, and applies 22% standard VAT rate, 9,5% reduced VAT rate and 5% super-reduced rate.

As of 2025, there is also a beneficial tax scheme for awarding employees in startups, provided that the startup is registered with the Slovene Enterprise Fund (Register inovativnih zagonskih podjetij). Under such scheme, the taxation of shares granted to the employees of the startup, is deferred until the employee actually sells the shares (under the "regular" regime, the taxation would arise immediately upon granting the share – benefit in kind). The scheme also recognizes a potential loss, if the company's valuation drops (under the "regular" regime, no subsequent price drops would be recognized). In order to utilize such beneficial scheme for employees, certain administrative conditions must be met (proper registration of the company, at least one year of employment with employee, no benefits for shareholders owning 10% or more shares).

Contact points and links in relation to funding/subsidies for startups:

- Slovene Enterprise Fund: https://www.podjetniskisklad.si/en/
- Start:up Slovenia® – Public funding sources: https://www.startup.si/en-us/for-startups/public-funding-sources
- Start:up Slovenia® – Private funding sources: https://www.startup.si/en-us/for-startups/private-funding-sources
- Start:up Slovenia ® – Startup Plus Programme: https://www.startup.si/en-us/for-startups/startup-plus-programme
- Start:up Slovenia® – Taxes: https://www.startup.si/en-us/for-startups/administration-and-taxes
- Information on doing business in Slovenia: https://spot.gov.si/en/

WHAT ELSE?

Bank account: Prior to incorporation, a corporate bank account must be opened for the payment of the initial share capital, for which the bank needs to be provided with the company's articles of association and other requested information and documents. While the process of opening a bank account is generally straightforward, the extent of required documentation can vary based on each bank's Know Your Client / Anti Money Laundering requirements. Recent experiences indicate that most Slovenian banks strictly follow their KYC procedures, making it more difficult to open a bank account and incorporate companies. This is particularly true for foreign entities with a complex and diverse ownership structure, which may face difficulties in evidencing chains of control up to the ultimate beneficiary owners.

Employee share ownership plan regulation: A new ESOP law (Workers' Ownership Cooperative Act) entered into force in Slovenia on 1 January 2026. The Act draws inspiration from the most successful international employee ownership models (including the American ESOP, the British EOT and the Spanish Mondragon model) and introduces a new ownership structure based on a workers' ownership cooperative (lastniška zadruga delavcev). Through this intermediary cooperative, founders or other shareholders can gradually transfer their equity interest in the employer for the benefit of employees.

The cooperative acts as a single long-term shareholder, avoiding direct employee shareholdings and fragmented ownership. The acquisition is typically financed from future company profits rather than employee capital, making the model particularly relevant for growth-stage companies with sustainable cash flows. Employee contributions are capped at EUR 300 and employees are not personally liable for cooperative's obligations.

Employees participate economically through the cooperative, with taxation largely deferred until payout. The Act is supported by a dedicated tax framework with tax incentives, including a reduced capital-gains tax base for shareholders selling to the cooperative, tax-deductible contributions for companies financing the structure, favorable tax treatment for the cooperative and deferred and reduced employee taxation.



SOUTH AFRICA

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SOUTH AFRICA

LEGAL FOUNDATIONS

The Republic of South Africa is a constitutional democracy founded on the supremacy of the Constitution and the rule of law. The Constitution of the Republic of South Africa, 1996 is the highest law in the country and all legislation, common law, and conduct by the state and private persons must be consistent with it.

South Africa has a mixed (or hybrid) legal system, combining elements of Roman Dutch civil law, English common law, and modern legislation enacted by Parliament..The Roman Dutch common law derived from the uncodified law of Holland, forms the foundation of South African private law. It is most visible in substantive areas such as contract law, delict, property law, family law, the law of persons, and the law of succession. These areas continue to develop incrementally through judicial interpretation, subject always to constitutional norms.

The English common law influence is most evident in the procedural and institutional aspects of the legal system. South Africa follows an adversarial system of adjudication, with detailed reporting of judicial decisions and a strong doctrine of stare decisis (precedent). English legal influence is particularly apparent in civil and criminal procedure, company law, constitutional litigation practice, and the law of evidence. As a general rule, South African courts have historically drawn heavily on English legal principles in these areas, although such principles are now applied through a distinctly South African constitutional lens.

Legislation enacted by Parliament plays a central role in the legal framework. Courts are required to interpret legislation in a manner that promotes the spirit, purport and objects of the Bill of Rights.

Jurisdictional Structure and Court Hierarchy

South Africa is a unitary state, not a federal system. Legislative authority is divided primarily between national and provincial spheres of government. However, there is a single integrated judicial system with national jurisdiction.

The South African court system is organised in a clear hierarchy from lowest to highest authority:

- **Magistrates Courts** - These courts are the courts of first instance for most criminal and civil matters and are spread throughout the country.
- **High Court of South Africa** - There is a single High Court, divided into several provincial and local divisions, each with jurisdiction over a defined geographical area.
- **Supreme Court of Appeal (SCA)** - The Supreme Court of Appeal is a purely appellate court, primarily hearing appeals from the High Court.
- **Constitutional Court** - The Constitutional Court is the apex court in South Africa. It has final authority over all constitutional matters and, since amendments to the Constitution, may also hear non constitutional matters where it is in the interests of justice to do so. Its decisions are binding on all other courts.

SOUTH AFRICA

LEGAL FOUNDATIONS

Specialised Courts and Tribunals

In addition to the ordinary court hierarchy, Parliament has established a number of specialised courts and tribunals to deal with areas of law requiring particular expertise or to advance important public policy objectives.

CORPORATE STRUCTURES

When establishing a business in South Africa, start ups may choose from a range of legal structures depending on factors such as liability protection, tax considerations, funding strategy, regulatory requirements and operational flexibility.

The following business entities can be established in South Africa, and different establishment requirements apply to each:

Limited Liability Companies

The limited liability company is by far the most commonly used and commercially preferred structure for start ups operating in South Africa. Limited liability companies are governed by the Companies Act 71 of 2008 (the Companies Act). Within this category, the private company (designated "(Pty) Ltd") is the most prevalent form.

Personal Liability Companies

A personal liability company (designated "Inc.") is a specific category of profit company under the Companies Act. It must meet the criteria for a private company and its MOI must expressly state that it is a personal liability company.

Partnerships

A partnership is an unincorporated association of two or more persons formed by agreement, with the objective of carrying on a business for joint benefit and for the purpose of making a profit. Partnerships are governed primarily by common law, rather than statute. A partnership does not have separate legal personality distinct from its partners.

Sole Proprietorship

A sole proprietorship is the simplest form of business structure and does not constitute a separate legal entity. The business has no existence separate from its owner, who bears full personal liability for all business debts and obligations.

Joint ventures

A joint venture is not a distinct legal entity under South African law and is not governed by a specific legislative framework. Instead, a joint venture is a contractual or structural arrangement between two or more parties who collaborate for a specific project or business objective.

SOUTH AFRICA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Navigating the regulatory landscape for foreign investment in South Africa is crucial for any international client considering entering the market. South Africa, with its strategic location and status as a gateway to the African continent, encourages foreign investment and offers numerous opportunities for foreign investors. Particularly, the Protection of Investment Act, 2015, provides for the protection of investments including foreign investors. This piece of legislation states, inter alia, that foreign investors and their investments must not be treated less favourably than South African investors in "like circumstances" and affords foreign investors fair administrative treatment, protection against unconstitutional expropriation of property and the right to transfer investment related funds, while affirming South Africa's right to regulate in the public interest. However, like any country, South Africa has specific rules and restrictions designed to regulate foreign investment and ensure it aligns with national interests and economic development goals. Here's a detailed overview of the key considerations:

Foreign Investment Regulations

South Africa is generally open to foreign investment in most sectors, and it actively encourages foreign direct investment (FDI) as a means to drive economic growth, improve international competitiveness, and create employment opportunities. However, there are certain regulatory frameworks and restrictions that foreign investors should be aware of:

- **Exchange Control Regulations:** South Africa has exchange control regulations that affect the movement of capital in and out of the country. These regulations are administered by the South African Reserve Bank (SARB) and "authorised dealers" (being commercial banks in South Africa) appointed by the SARB. See below for further detail.
- **Sector-Specific Restrictions:** Certain sectors have restrictions on foreign ownership, aimed at protecting national interests or promoting local participation. For example, in the broadcasting, telecommunications, and defense industries, there are limits on the percentage of foreign ownership allowed. It's crucial for investors to verify sector-specific regulations before proceeding.
- **Broad-Based Black Economic Empowerment (BEE):** The BEE framework aims to redress the inequalities of apartheid by promoting economic transformation and enhancing the economic participation of black people (being people who are black Africans, Coloured or Indian and who are South Africans citizens). See below for further detail.

Investment Incentives

South Africa offers various incentives to attract foreign investment, including tax incentives, grants, and subsidies in specific sectors such as manufacturing, automotive, film production, and renewable energy. The Department of Trade, Industry and Competition (DTIC) provides detailed information on available incentives and eligibility criteria.

Entry and Establishment of Foreign Businesses

Foreign entities can establish a presence in South Africa in several forms, such as a subsidiary, branch, or through a business visa if setting up a new business or investing in an existing one. The choice of entity has implications for tax, repatriation of funds, and compliance obligations.

Protection of Foreign Investment

South Africa is a signatory to several bilateral investment treaties (BITs) and is a member of international investment agreements that provide protection to foreign investors. These agreements typically include provisions on non-discrimination, fair and equitable treatment, protection from expropriation without compensation, and mechanisms for dispute resolution.

Conclusion

It is essential for foreign investors to navigate the regulatory landscape in South Africa carefully. Understanding the exchange control regulations, sector-specific restrictions, BEE compliance, and the legal framework for establishing a business presence is crucial. Additionally, leveraging the protections offered by international investment agreements can provide a layer of security for foreign investments.

Thorough due diligence is recommended, and one should seek expert legal guidance for their unique needs when considering an investment in South Africa. This ensures compliance with local laws and regulations, optimises the benefits of available incentives, and mitigates potential risks associated with foreign investment.

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STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

Navigating the landscape of Intellectual Property (IP) rights in South Africa is crucial for any international client operating within the country. South Africa has a well-established legal framework protecting IP, designed to safeguard the interests of creators and innovators while promoting economic growth. IP rights are generally well-enforced through various statutory and regulatory mechanisms, supported by extensive case law, providing IP owners with a high degree of certainty on enforcement.

Where IP Can Be Registered in South Africa

In South Africa, intellectual property can be registered under various categories, each managed by specific governmental bodies or legislation:

- **Patents:** The Companies and Intellectual Property Commission (CIPC) administers the registration of patents in South Africa. Patent protection is granted for inventions that are novel and inventive. The term "invention" is not defined in legislation, but specifically excludes discoveries, scientific theories, mathematical methods, methods for performing a mental act and computer programs as such. Patents are protected for 20 years from the date of application, subject to annual renewal fees.
- **Designs:** South Africa recognises aesthetic and functional designs, the registration of which is administered by the CIPC. Aesthetic designs protect certain features of an article that appeal to the eye, whereas functional designs protect those necessitated by the function of the article. Aesthetic designs are protected for fifteen years and functional designs for ten years. The period is calculated from the application date or the release date, whichever is earlier, subject to renewal fees.
- **Trademarks:** Trademarks are registered with the CIPC. A registered trademark provides protection for distinctive words, signs, logos, slogans associated with goods or services. A trademark is considered distinctive if it serves to distinguish the goods or services of a person from that of another. It will not be considered distinctive, if it serves to indicate the kind, quality, quantity, intended purpose, value, geographical origin or other characteristics of the goods or services in relation to which it is used. Once registered, a trademark is granted from the date of filing an initial period of 10 years, renewable indefinitely for further periods of 10-years. Trademarks based on prior use, or so called common law trademarks, are recognised in South Africa and are enforced through the common law (based on a Roman-Dutch system slightly different from other commonwealth jurisdictions) Although terminology such as "passing off" is used, the tests for enforcement differs slightly from other jurisdictions.
- **Copyrights:** Copyright does not require registration in South Africa, automatically protecting original works, such as literary works, musical works, artistic works, and computer programs. Copyright subsists from the moment of creation, provided the work is written down or otherwise reduced to a material form. Copyright protection is finite and the duration will depend on the type of work in which the copyright subsists. For example, the copyright in a literary work (published during the lifetime of the author) subsists for fifty years from the end of the year in which the author dies.

Protections Afforded by Registration

Registration of IP affords the owner, amongst other rights, the exclusive rights to use, manufacture, sell, or license their creation, as well as to take legal action against infringement.

Trade Secret Legislation

South Africa does not have specific legislation dealing exclusively with trade secrets. Trade secrets are afforded a measure of protection under the common law. Trade secrets are typically protected contractually, by way of confidentiality agreements and non-disclosure agreements. Information generally only qualifies as a trade secret if the owner can show that it the information is indeed not in the public domain, it is applicable in trade or industry, it has commercial value and that there are protective measures in place to ensure the ongoing secrecy of the information.

INTELLECTUAL PROPERTY, CONT'D

Madrid System Participation

South Africa is not a member of the Madrid System for the International Registration of Marks.

Patent Cooperation Treaty Participation

South Africa is a member of the Paris Convention and the Patent Cooperation Treaty (PCT). It is therefore possible to file PCT national phase applications in South Africa, which enables a South African national to file a single patent application which can establish conditional rights in various other countries. These rights are conditional in that the PCT application does not avoid the ultimate filing of the usual national or regional patent applications but delays the necessity of doing so. It allows for the designation of South Africa in an application by an inventor from any of the other member states to the Treaty.

Exchange Control

When dealing with IP assets in South Africa it is important to note the local exchange control rules, which provides that a South African IP owner who transfers and/or licenses IP to a non-South African entity triggers an exchange control event in terms of the South African Exchange Control Regulations, which requires regularisation by the South African Reserve Bank (SARB). Failure to obtain approval is a criminal offence under South African law.

Conclusion

For international clients looking to operate in South Africa, understanding and leveraging the country's IP framework is essential. While South Africa offers robust mechanisms for safeguarding IP, businesses should be proactive in employing strategies such as confidentiality agreements to protect trade secrets, given the lack of specific trade secret legislation. Diversifying an IP portfolio is generally the best way to protect the interests of businesses comprehensively, as the interplay between the different types of IP can often be taken advantage of to protect interests not traditionally covered by any specific IP right.

SOUTH AFRICA

DATA PROTECTION/PRIVACY

In South Africa the Protection of Personal Information Act 4 of 2013 (also known as POPIA) and its Regulations give effect to the Constitutional right to privacy as enshrined in section 14 of the Constitution of the Republic of South Africa, 1996.

Application of POPIA? POPIA applies to the processing of personal information entered in a record by or for a responsible party by making use of automated or non-automated means: (i) where the responsible party is domiciled in South Africa; or (ii) where the responsible party is not domiciled but makes use of automated or non-automated means in South Africa then POPIA, unless those means are used only to forward personal information through South Africa.

Who is a data subject? Any (natural or juristic) person to whom personal information relates.

Who is a responsible party? Either a public or private body, or any other person which alone or in conjunction with others, determines the purpose of and means for processing personal information. In most jurisdictions this is referred to as a 'data controller'.

What is personal information? Information relating to an identifiable, living natural person and where it is applicable, an identifiable, existing juristic person, including, but not limited to, information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person; information relating to the education or the medical, financial, criminal or employment history of the person; any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person; the biometric information of the person; the personal opinions, views or preferences of the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; the views or opinions of another individual about the person; and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

How does a responsible party lawfully process the personal information of a data subject? POPIA sets out eight conditions for lawful processing of personal information with which a responsible party must comply in order to lawfully process the personal information of a data subject, namely:- (i) Accountability, (ii) Processing Limitation, (iii) Purpose Specification, (iv) Further Processing Limitation, (v) Information Quality, (vi) Openness, (vii) security safeguards, and (viii) data subject participation. There are also limitations on transborder flows of personal information under POPIA and there are certain processing activities that require prior authorisation from the Information Regulator.

Who monitors and enforces compliance with POPIA? The Information Regulator, an independent body established in terms of POPIA. It is accountable to the National Assembly.

Registration of Information Officers? Public and private bodies are required to register their information officers with the Information Regulator and must only take up their duties in terms of POPIA after the responsible party has registered them with the Information Regulator.

Who must be registered as an Information Officer? The information officer of a public body; and a private body. Information officers may also appoint and register deputy information officers who will assist with ensuring compliance with POPIA.

How can information be lawfully accessed? In terms of section 23 of POPIA, a data subject, having provided adequate proof of identity, has the right to request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information, within a reasonable time; at a prescribed fee, if any; in a reasonable manner and format; and in a form that is generally understandable.

In terms of section 23(2) of POPIA, if, in response to a request, personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 of POPIA to request the correction of information.

In terms of section 23(4) of POPIA, a responsible party may or must refuse, as the case may be, to disclose any information requested to which the grounds for refusal of access to records set out in the applicable sections of Promotion of Access to Information Act 2 of 2000 (PAIA) apply. If a request for access to personal information is made to a responsible party and part of that information may or must be refused, every other part must be disclosed.

The provisions of PAIA and POPIA should be read together.

DATA PROTECTION/PRIVACY, CONT'D

Penalties due to non-compliance with POPIA? The Information Regulator has general powers to investigate and consider complaints where it suspects that a responsible party is not complying with POPIA.

Sanctions for non-compliance with POPIA include a fine or imprisonment not exceeding 10 years, or both a fine and imprisonment in certain specified circumstances. Currently the maximum administrative fine that may be imposed is ZAR10 million. However, for most offences in terms of POPIA there would first be an enforcement notice and there would only be a sanction imposed under POPIA if there is failure to comply with that enforcement notice.

Policies that should be readily available?

- Privacy Policy, Personal Information Breach Policy, Data Retention Policy, and a PAIA Manual.

ARTIFICIAL INTELLIGENCE

As with many emerging markets and developing countries, South Africa still does not have a single dedicated artificial intelligence (AI) statute or comprehensive AI act. Instead, AI is regulated through existing legislation, supplemented by policy instruments, sector specific guidance and regulatory reports informed by international trends and local context. Over the past two years, South Africa's AI regulatory position has advanced meaningfully through national policy frameworks and sector regulator publications, which shape 'soft law' expectations and inform future legislative design.

These developments do not replace existing binding law (such as POPIA or the Cybercrimes Act), but they materially affect how regulators, customers, investors and counterparties expect AI to be governed in South Africa. Additionally, many businesses have proactive adopted AI policies, frameworks and guidelines.

Here's a detailed overview:

General Regulatory Framework

1. **Data Protection and Privacy:** South Africa does not currently have data protection laws and/or regulations that govern AI use comprehensively. However, POPIA, the Consumer Protection Act, 2008 (CPA) and the Electronic Communications and Transactions Act, 2002 (ECTA) regulate certain aspects of AI use in relation to data protection, privacy, and consumer rights.
2. **Consumer Protection:** The CPA also has implications for AI, especially in terms of product liability, fair marketing practices, and the right to privacy. AI developers and providers must ensure that their solutions do not mislead consumers and that they provide adequate information about the AI's functionality and potential risks.
3. **Intellectual Property (IP):** The South African IP regime covers aspects relevant to AI, including copyright, patents, and trade marks. While software per se is not patentable in South Africa, the innovative algorithms and methods underlying AI technologies might be protected under certain conditions. South Africa made news by becoming the first country to issue a patent which designated an AI tool as the inventor. Original computer programs are protected as works of copyright, but the protection subsists in the actual source code and not the mathematical methods and theories that inform its operation. Copyright might protect AI-generated content, although this area remains legally grey, as a work is considered to be original (and therefore eligible for copyright protection) if the author thereof exercised independent skill and labour. How the principle of originality applies and is to be determined in the case of AI-generated works is currently unclear and theoretical. The list of exceptions to copyright are in the process of being amended, but currently does not adequately address the training of AI tools using works protected by copyright.
4. **Cybersecurity:** The Cybercrimes Act, which addresses cybercrimes and cybersecurity, has implications for AI systems, especially regarding the unauthorized access, interception, or interference with data, which could include AI-generated data.

ARTIFICIAL INTELLIGENCE, CONT'D

Sector-Specific Regulations

Certain industry sectors are subject to additional regulations affecting AI development and deployment. For example:

- **Financial services:** In November 2025, the Financial Sector Conduct Authority and the Prudential Authority jointly published a report on AI use in South Africa's financial sector. The report identified material risks such as privacy, bias, explainability, governance and cybersecurity, and set expectations for responsible AI usage. Financial services providers are required to demonstrate compliance by devising AI frameworks for governance, risk management and board-level oversight. While not legally binding, the report signals the regulators' supervisory approach that will influence the financial sector's AI regulation. Additionally, the Conduct of Financial Institutions Bill reform process is expected to increase scrutiny of AI-driven customer outcomes and decision processes.
- **Healthcare:** Healthcare AI applications must comply with regulations enforced by the Health Professions Council of South Africa (HPCSA) and comply with the National Health Act. In September 2025, the HPCSA issued the 'Ethical Guidelines on the Use of Artificial Intelligence, Booklet 20', confirming that AI may assist with clinical analyses, but cannot replace professional judgement. Healthcare practitioners remain accountable for patient assessment, interpretation of AI outputs and final decision. The guidelines are founded on ethical use, legal compliance and technical assurance.
- **Data and cloud:** South Africa's National Policy on Data and Cloud (May 2024) provides government's policy direction for data governance, cloud adoption, security, interoperability and cross-border data transfers. It reinforces compliance with existing laws, while signalling increased reliance on private sector cloud and data centre providers, subject to minimum requirements for certain categories of government data.

Ethical Guidelines and Future Directions

The adoption of AI across industries raises universal risks related to integrity, fairness and accountability. In August 2024, South Africa's Department of Communications and Digital Technologies issued its 'South Africa National Artificial Intelligence Policy Framework', which is intended to guide the development of a comprehensive National AI Policy. The draft policy is undergoing the Cabinet approval processes and is expected to be finalised in 2027. The Policy is structured around five core pillars:

- **Capacity and talent development:** Building national AI skills and infrastructure through education, industry collaboration and access to computing resources.
- **Responsible AI governance:** Proposing safeguards to manage AI related safety, privacy risks, cybersecurity threats, misinformation and deepfakes, through transparency and accountability measures.
- **Ethical and inclusive AI:** Promoting fairness and bias mitigation through representative local datasets and avoiding imported bias arising from foreign trained models, underpinned by nationally defined ethical standards.
- **Cultural preservation and global integration:** Leveraging AI to preserve and digitise indigenous cultural assets, heritage, languages and knowledge systems, while remaining globally competitive.
- **Human-centred approach:** Rejecting opaque 'black box' AI systems in high impact decision making and affirming organisational accountability for AI driven outcomes, regardless of automation, particularly where harm arises.

The Policy is intended to function as an overarching framework, with more detailed, sector specific strategies developed over time within existing sector-specific regulatory frameworks, adopting a multi regulator model approach, involving pre existing oversight authorities such as the Independent Communications Authority of South Africa and the Information Regulator.

ARTIFICIAL INTELLIGENCE, CONT'D

International Considerations

AI regulation is remains globally dynamic, with many countries adopting risk-based, sector-specific and ethics driven regulations. South Africa's regulation trajectory is influenced by its participation in international forums, including its G20 Presidency from December 2024 to November 2025, during which it led AI focused workstreams such as the Task Force on AI, Data Governance and Innovation for Sustainable Development and the broader Digital Economy Working Group. These processes have reinforced domestic regulatory alignment with prevailing global AI norms.

International legal frameworks, together with South Africa's participation in G20 and OECD led AI governance initiatives, is likely to shape future domestic AI laws and policies.

Conclusion

Although South Africa does not yet have a dedicated AI regulatory regime, AI is increasingly regulated through a combination of existing legislation, sector-specific guidance and national policy instruments. These developments are elevating expectations around privacy, explainability, fairness, security and accountability. Entities operating in South Africa must navigate this evolving legal landscape, ensuring compliance with data protection, consumer protection, IP rights, and sector-specific regulations, while staying informed about future regulatory developments both in South Africa and internationally.

EMPLOYEES/CONTRACTORS

Employees in South Africa

South Africa has a very regulated labour market.

South Africa's Labour Relations Act, 1995 (LRA) provides for both individual and collective labour law rights. The LRA establishes an unfair dismissal and unfair labour practice dispensation. Disputes are typically conducted in tribunals such as the Commission for Conciliation, Mediation and Arbitration (CCMA) or in bargaining councils established in specific industries. Certain disputes are reserved for adjudication by a specialist Labour Court.

South African has adopted a National Minimum Wage Act, 2018 (NMWA) in terms of which a National Minimum Wage Commission makes recommendations on the minimum wage applicable to all 'workers'

The Basic Conditions of Employment Act, 1997 (BCEA) sets minimum terms and conditions of employment including in relation to working hours, lunch breaks, overtime pay, the contents of written particulars of employment, etc. The BCEA distinguishes between employees earning below and above a statutory remuneration threshold with certain rights only applying to employees earning below that threshold. The BCEA also provides for labour inspectors to ensure compliance.

In terms of the Employment Equity Act, 1998 (EEA) there is a prohibition on unfair discrimination in the workplace and an obligation on certain employers to implement affirmative action measures. The prohibition on unfair discrimination applies to all employers in South Africa regardless of their size. The obligation to take affirmative action measures, including the requirement to have an employment equity plan and submit employment equity reports, only applies to 'designated employers'. See section 11 below in this regard.

Registration with social security: The majority of employers are required to register their employees with the Unemployment Insurance Fund (UIF) and make payment to the UIF of an employer contribution amounting to 1% of an employee's remuneration together with an employee contribution of 1% of the employee's remuneration (subject to a statutory cap). There is also a requirement to register with the Compensation Fund and make payments in terms of the Compensation for Occupational Injuries and Diseases Act, 1993. Employers are also required to register with the South African Revenue Service and withhold employees' tax (PAYE).

EMPLOYEES/CONTRACTORS, CONT'D

Termination: The termination of employment in South African generally falls within three broad types, namely (1) termination for misconduct, (2) termination for incapacity (due to poor work performance or ill-health or incompatibility) and (3) termination for occupational requirements / retrenchments (based on the economic, technological or structural requirements of the employer).

The LRA affords employees significant protection from dismissal. In terms of South African law, a dismissal must be substantively and procedurally fair. This means that the employer must have a fair reason to dismiss, and must follow a fair procedure in giving effect to the dismissal. The procedural fairness requirements differ depending on the reason for the dismissal.

Employees' contracts of employment can accordingly not be terminated simply by the giving of notice, as South African law does not recognise "employment-at-will".

Reinstatement is the primary remedy for a dismissal that is substantively unfair. Compensation may be awarded where the dismissal was only procedurally unfair or where reinstatement is not practical or the employee does not seek reinstatement. The maximum amount of compensation that may be awarded is limited to 12 months' remuneration. However, in the case of an automatically unfair dismissal (such as, for example, where the reason for a dismissal is unfair discrimination), compensation equal to an amount of up to 24 months' remuneration may be awarded.

Independent contractors

In South Africa independent contractors are excluded from the employment protections afforded to employees, but legislation imposes a presumption of employment if certain elements exist in the working relationship, such as the right of supervision on the part of the employer. The presumption applies only to persons earning below the BCEA threshold. For other workers, the common law dominant impression test applies. There is no single indicator of an employment relationship. Instead, the court will look at the relationship as a whole to determine whether the relationship is one of employment or independent contracting. The level of control exercised by the 'employer' over the 'employee' is an important aspect to be considered as well as whether the 'employee' is an integral part of the organisation and is economically dependent on the 'employer'. If the factors surrounding the relationship support an employment relationship as opposed to an independent contractor agreement then the individual would have employment rights under South African law.

Atypical forms of employment

It is possible to engage employees through a temporary employment service agency / labour broker in terms of which the labour broker provides employees to work for a client in exchange for a fee, in which case the labour broker (and not the client) is the employer of the employees. There are, however, deeming provisions in terms of which a labour broker employee who earns below the BCEA threshold and works for a client for more than three months is deemed to be an employee of the client for the purposes of the LRA and therefore the client takes on all unfair dismissal obligations in respect of such employee.

It is possible to engage employees on fixed term contracts in South Africa but it may constitute an unfair dismissal to rely on the expiry date to bring the employment relationship to an end if the employee has a reasonable expectation of renewal or continued employment. Furthermore, fixed term employees who earn below the BCEA threshold and who have been engaged for longer than three months are deemed to be permanent employees unless there is a lawful justification for fixing the term.

SOUTH AFRICA

CONSUMER PROTECTION

Consumer Protection in South Africa

Consumer Protection in South Africa is governed by the Consumer Protection Act, 2008, (CPA). The CPA applies broadly to the supply and promotion of goods and services in South Africa, where a supplier promotes or sells goods/services in the ordinary course of business to consumers. It applies to all natural persons as well as to small juristic persons with a turnover or asset value of ZAR2 million or less, and protects against unfair marketing, unconscionable conduct, and unsafe goods.

The CPA regulates key aspects of the consumer lifecycle, including the marketing (including advertising) of goods and services, contracts between consumers and suppliers, supply and service relationships between suppliers and consumers, discriminatory practices in the consumer market, product liability and relationships between franchisors and franchisees. It also regulates (among other things) direct marketing practices, cancellation rights in certain fixed-term and direct-marketing transactions, and information disclosure requirements (including plain-language communication and pricing transparency).

Who is a consumer?

Under the CPA, a "consumer" includes individuals, and certain juristic persons that fall below the prescribed threshold (ie. a total annual turnover under ZAR2 million). Foreign entities contracting with South African small to medium enterprises (SMEs)may still be "consumers" for purposes of the CPA.

The application of the CPA

The CPA applies to every transaction occurring within South Africa, unless it is exempted; the promotion of any goods or services, or of the supplier of any goods or services, within South Africa, unless those goods or services could not reasonably be the subject of a transaction to which the CPA applies; or the promotion of those goods or services has been exempted in terms of the CPA; the goods or services that are supplied or performed in terms of a transaction to which the CPA applies, irrespective of whether any of those goods or services are offered or supplied in conjunction with any other goods or services, or separate from any other goods or services; and to goods that are supplied in terms of a transaction that is exempt from the application of the CPA but only to the extent provided for in the CPA.

Key exclusions (ie. when the CPA will not apply)

The CPA does not apply to any transaction, in terms of which goods or services are promoted or supplied to the State; in terms of which the consumer is a juristic person whose asset value or annual turnover, at the time of the transaction, equals or exceeds the threshold value determined by the Minister; if the transaction falls within an exemption granted by the Minister; that constitutes a credit agreement under the National Credit Act, 2005 but the goods or services that are the subject of the credit agreement are not excluded from the ambit of the CPA; pertaining to services to be supplied under an employment contract; giving effect to a collective bargaining agreement within the meaning of the Constitution and the LRA; or giving effect to a collective agreement as defined in the LRA.

A supplier must not make a transaction or agreement subject to any term or condition if its general purpose or effect is to defeat the purposes of the CPA; or if it directly or indirectly purports to waive or deprive a consumer of a right in terms of the CPA, avoid a supplier's obligation or duty in terms of the CPA; set aside or override the effect of any provision of the CPA; or authorise the supplier to do anything unlawful in terms of the CPA, or to fail to do anything that is required in terms of the CPA.

Consumers' core rights

The CPA is concerned primarily with the activities of "supply" and "marketing" by a supplier in the course of business. The interaction between suppliers and consumers may specifically entail agreements and transactions between consumers and suppliers but may also involve marketing in the form of the promotion or supply of goods or services and advertising, as well as conduct preceding and accompanying the conclusion of agreements and the execution and enforcement thereof.

Consumers have the following rights outlined in the CPA namely, the right to equality in the consumer market and protection against discriminatory marketing practices; privacy; choice, fair and responsible marketing; fair and honest dealing; fair, just and reasonable terms and conditions; fair value, good quality and safety; and right to accountability by suppliers.

The application of the CPA extends to a matter irrespective of whether the supplier resides or has its principal office within or outside South Africa, operates on a for-profit basis or otherwise, is an individual, juristic person, partnership, trust, organ of state, an entity owned or directed by an organ of state, a person contracted or licensed by an organ of state to offer or supply any goods or services, or is a public-private partnership, or is required or licensed in terms of any public regulation to make the supply of the particular goods or services available to all or part of the public.

SOUTH AFRICA

TERMS OF SERVICE

Navigating the intricacies of online terms of service (ToS) in South Africa requires a nuanced understanding of both local legislation and international best practices. Below is a high level overview of the key considerations that must be taken into account to ensure that an online ToS is enforceable in South Africa.

Compliance with South African Law

Consumer Protection Act (CPA), 2008
The CPA plays a significant role in shaping enforceable online terms and conditions by requiring that consumer agreements are fair, transparent and reasonable.

The CPA prohibits suppliers from using terms that are unfair, unreasonable, unjust, or excessively one sided, and any such clauses may be rendered unenforceable. The CPA also imposes strict obligations around disclosure and plain language. Under sections 22 and 49 of the CPA, suppliers must present terms in a manner that ordinary consumers can understand and must draw specific attention to any clauses that limit liability, impose risks on the consumer, create financial obligations, or permit unilateral changes. These terms must be displayed prominently and acknowledged by the consumer before acceptance.

The CPA further regulates automated renewals, cancellations and penalties, requiring reasonable notice before a fixed term contract renews and prohibiting excessive cancellation fees.

The CPA also prohibits false, misleading or deceptive representations in terms or marketing. The CPA grants consumers substantive rights, such as rights to safe, good quality goods and services, fair value, and honest dealing, which cannot be waived or limited by contract. This means online terms may not override statutory consumer rights, deny remedies, or avoid liability for gross negligence.

Protection of Personal Information Act (POPIA), 2013
POPIA governs how responsible parties (which may include online service providers) process personal information. POPIA requires that responsible parties process personal information lawfully and transparently in accordance with the eight conditions for lawful processing (refer to Section 5 above).

Electronic Communications and Transactions Act (ECTA), 2002
To the extent that the provisions of the CPA do not apply to a particular transaction, the Electronic Communications and Transactions Act, 2002 (ECTA) will apply.

ECTA was enacted in order to, inter alia, provide for the regulation of electronic communications and transactions and to promote universal access to electronic communications and transactions.

Prohibited and Mandatory Clauses

Prohibited Clauses

- Unfair, unreasonable or unjust terms- Any clause that creates an excessive imbalance of power, is overly one-sided, or exploits consumers is automatically unenforceable.
- Attempts to waive statutory rights- Suppliers may not exclude or limit rights given to consumers or data subjects by law. This includes attempts to waive the CPA warranties, POPIA safeguards, or liability for gross negligence
- Hidden or non-disclosed adverse terms- If a risky or disadvantageous clause is buried in fine print or not properly highlighted, it cannot be enforced against the consumer.
- False, misleading or deceptive representations- Any clause that misstates facts, overstates benefits, or misleads consumers is prohibited, as it undermines fair dealing and informed consent.
- Unreasonable cancellation penalties- Cancellation fees must be reasonable and tied to actual costs. Excessive or punitive fees are unlawful and unenforceable.
- Unilateral change clauses without notice- A supplier cannot reserve the right to unilaterally amend the terms at any time. Changes require reasonable notice and an opportunity to accept or reject them.
- Contracting out of POPIA compliance- Terms may not disclaim responsibility for safeguarding personal information, shift legal duties onto the user, or force broad, involuntary consent. POPIA obligations remain with the responsible party.

TERMS OF SERVICE, CONT'D

Conclusion

Crafting an online ToS for operation in South Africa requires careful consideration of local laws such as the CPA, POPIA, and ECTA, alongside international regulations where applicable. Ensuring transparency, fairness, and the protection of consumer rights is paramount. It's advisable to seek legal expertise when drafting these documents to ensure they meet all legal requirements and are fully enforceable in South Africa.

TAX/FUNDING

South Africa's tax landscape is governed by several key regulations that foreign investors should understand before entering the market. The Comprehensive Tax Obligations Comparison provides an in-depth overview of primary tax types, rates, and legislation in force. Below is a concise summary:

- Corporate Income Tax (CIT): Companies and close corporations generally pay 27% on taxable profits (Income Tax Act 58 of 1962). Trusts are taxed at a flat 45% rate.
- Value-Added Tax (VAT): Levied at 15% on goods and services if turnover exceeds ZAR 1 million in any consecutive 12 month-period (Value-Added Tax Act 89 of 1991).
- Dividend Withholding Tax (DWT): Usually 20% on dividend payouts, withheld by the company declaring the dividend (or a regulated intermediary) (Income Tax Act, s. 64E)
- Capital Gains Tax (CGT): Companies and close corporations face an effective rate of 21.6%; trusts have a higher effective rate of 36%.
- Employees' Tax (PAYE) & Levies: Employers must deduct PAYE from salaries monthly. Skills Development Levy (1% of payroll) and Unemployment Insurance Fund contributions (1% each from employer and employee) may also apply.
- Other Key Taxes: Transfer Duty on property acquisitions; Turnover Tax for small businesses under ZAR 1 million turnover; Donations Tax; Estate Duty; Securities Transfer Tax; Customs and Excise Duties; and Carbon Tax on qualifying emissions.

Funding and Subsidies

Recent funding trends emphasize innovation, renewable energy, and the growth of small to medium enterprises. Principal contact points for incentives, grants, and loans include:

- **Department of Trade, Industry and Competition (DTIC):** www.thedtic.gov.za
- **Industrial Development Corporation (IDC):** www.idc.co.za

Further Information and Professional Advice

Detailed tax guidelines are available from the South African Revenue Service (www.sars.gov.za). Given the complexity of tax obligations and the variety of state-backed incentive programs, investors are encouraged to consult local advisors to maintain compliance and optimise funding opportunities.

WHAT ELSE?

THE GOVERNMENT IN SOUTH AFRICA

Government has various business-development support programs that are designed to create a conducive environment for foreign investment and enterprise development.

Inherent within the economic development strategy of South Africa is the recognition of the catastrophic consequences of South Africa's past history of apartheid, which created inequalities between races and genders.

In giving effect to the policy objectives advancing previously disadvantaged groups, government has adopted a mixed framework of incentives, regulatory requirements and procurement-based mechanisms to encourage both foreign and local participation in the economy, while simultaneously advancing transformation and enterprise development. This framework is implemented through, among other things, investment-promotion initiatives, sector-specific legislation, preferential procurement policies and empowerment-related compliance requirements.

Accordingly, while South Africa actively promotes foreign direct investment through institutions such as InvestSA, the Industrial Development Corporation and incentive schemes administered by the Department of Trade, Industry and Competition, access to these programmes and participation in government led economic activity is often linked to broader policy objectives, including localisation, skills transfer, job creation and the advancement of historically disadvantaged individuals.

As a result, foreign and local companies seeking to do business with government are typically required to navigate a policy environment in which investment promotion and empowerment considerations operate in parallel, meaning that legislation and policies designed to attract investment may also impose obligations relating to transformation, local participation or enterprise development, either directly or indirectly.

These empowerment-related considerations are most commonly encountered through public procurement processes, licensing and sector-specific regulatory regimes, where compliance with transformation objectives is used as a mechanism to advance economic inclusion and redress historical inequalities, while still encouraging investment and economic growth.

EMPLOYMENT EQUITY ACT (EEA)-Applies only to designated employers

The purpose of the EEA is to achieve equity in the workplace by- (a) Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and (b) in the case of designated employers (ie. employers who employ 50 or more employees), implementing affirmative action measures to redress the disadvantages in employment experienced by **designated groups** (ie. black people (Africans, Coloureds and Indians), women and people with disabilities who are citizens of the Republic of South Africa by birth or descent; or became citizens of the Republic of South Africa by naturalisation before 27 April 1994; or after 26 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date but who were precluded by the apartheid policies in force at the time)) to ensure their equitable representation in all occupational levels in the workforce.

The EEA requires 'designated employers' to take affirmative action measures, which includes the requirement to prepare and implement an employment equity plan and to submit employment equity reports to the Department of Labour on an annual basis on the progress it has made towards achieving its affirmative action goals. The Minister of Employment and Labour has recently set five-year numerical targets for designated employers in different sectors and designated employers need to take steps towards achieving these targets.

WHAT ELSE?, CONT'D

BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT

Broad-based black economic empowerment (**BEE**) is a government policy aimed at empowering South African citizens, racially classified as African, Indian or Coloured (**HDI**), who were previously discriminated against under South Africa's apartheid regime.

The Broad Broad-Based Black Economic Empowerment Act, 2003 (as amended) regulates the promotion and implementation of BEE, by amongst others, rating companies on a scale of level 1 to 8 (scale 1 representing the highest level of BEE participation to 8, being the lowest level or rating). The higher the B-BBEE rating, the higher the entity is scored to benefit for purposes of doing business with the government and securing state tenders. The government also issues sector codes that provide indices for BEE ratings per sector (e.g. manufacturing, legal, transport, banking etc.).

Foreign bidders may be exempt from BEE measurement under the BEE Codes of Good Practice, particularly in respect of ownership and management control. However, organs of state may still require that a portion of the contract value be allocated to local suppliers as part of enterprise, supplier development or localisation objectives, provided such requirements do not operate as upfront pre qualification criteria.

Transacting with private entities

For the most part, compliance with BEE is voluntary, in the sense that there is no general "hard law" requirement under the BEE regime obliging private businesses to achieve a particular BEE level or to have a minimum percentage ownership by Black people. Instead, the BEE framework operates primarily through commercial incentives, encouraging businesses to improve their BEE status in order to remain competitive. Certain sector-specific legislation (such as the Electronic Communications Act 36 of 2005 or the Minerals and Petroleum Resources Development Act 28 of 2002) does impose mandatory BEE-related ownership or participation requirements, but these obligations apply only to entities operating within those regulated sectors.Nevertheless, a private company may be contractually required by a material customer to maintain a certain BEE rating, even though the customer itself is not a public body. In this way, BEE compliance frequently arises as a customer-driven or supply-chain requirement, rather than a direct statutory obligation.

Accordingly, while a high BEE rating is relevant for doing business with government, it is equally important in the private sector, particularly where private entities are themselves required to meet BEE thresholds in order to tender for or perform government contracts. In these circumstances, private companies often prefer to contract with suppliers and service providers that have stronger BEE credentials, as this supports their own compliance and competitiveness.

One of the key elements of the BEE scorecard is preferential procurement. An entity improves its own BEE score by procuring goods and services from suppliers with higher BEE ratings. As a result, even entities that do not contract directly with government may become preferred suppliers within private supply chains, where those private entities are required, for regulatory or commercial reasons, to maintain strong BEE ratings in order to do business with the state.

EMPLOYMENT OF FOREIGNERS

South Africa allows the employment of foreign nationals, but only if they hold a valid work visa issued under the Immigration Act 13 of 2002. Employers may not employ a foreigner who does not have the correct authorisation, and doing so constitutes a statutory offence.

Employers must keep copies of passports and visas on record and must not employ a foreigner in a role that displaces a South African unless the visa category permits it, such as where the position falls within the Critical Skills List. Importantly, foreign employees enjoy the full protection of South Africa's employment laws.It is also important that employers ensure that the foreign national performs work only in line with the visa conditions. Changing employers, job roles or positions usually requires the foreign national to apply for a new visa or an amended condition.

Non-compliance exposes employers to criminal liability, fines, and restrictions on future visa sponsorship. Overall, foreign companies must ensure proper visa authorisation, role-specific compliance, careful record-keeping, and adherence to all South African employment protections when engaging foreign nationals.



SPAIN

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SPAIN

LEGAL FOUNDATIONS

Spain follows the civil law system. Law principles are codified into a referable written system, which serves as the primary source of law. The Spanish codified laws system unfolds into two main blocks:

Public law: governs the relationship between the bodies holding public power and the citizens. Public law mandates are generally binding and embrace broad areas of law such as constitutional law, criminal law, procedural law, tax law and administrative law, among others.

Private law: governs the relationships amongst individuals and is based on the autonomy of the will principle. The Spanish Civil Code ("**Código Civil**") is one of the main sources of private law, together with commercial legislation such as the Commercial Code ("**Código de Comercio**") or the Capital Companies Law ("**Ley de Sociedades de Capital**"), to name a few.

Spain is organized as a **decentralized state**, meaning that while its national laws apply throughout the entire territory, some of the seventeen Spanish autonomous communities (similar to regions or States) have their own legal systems applicable in relation to certain matters. Aragon, Catalonia, the Balearic Islands, Extremadura, Galicia, Navarra and the Basque Country have special legislation in matters such as family law, real estate, wills or –just some of them- contracts and obligations.

Custom and general principles of law are the other two sources of Spanish legal system apart from codified law. Court precedent and jurisprudence, in particular the rulings issued by the Spanish Supreme Court ("**TS**") and the Constitutional Court ("**TC**") are often used as interpretation tools in case of ambiguity, setting binding precedent and becoming an indirect source of law with a strong impact on the Spanish judicial system.

SPAIN

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

The Capital Companies Law sets the most relevant form of Companies in Spain: (i) the corporation (**S.A.**); (ii) the limited liability company (**S.L.**); and (iii) the partnership limited by shares (**S. Com. por Acciones**)

Traditionally, the corporation ("**S.A.**") has been commonly used by medium size or big-ticket companies and is mandatory, among others, for public stock traded companies in Spain, whereas the limited partnership less used. Limited liability companies ("**S.L.**") are by far the most commonly used, among other reasons, because of its greater flexibility, lower capitalization requirements, wider margin in setting up, drafting bylaws and internal governance.

Main differences between S.A. and S.L.

S.A.: (i) Capital divided into "Shares"; (ii) Minimum capital stock of €60,000, at least 25% paid upon incorporation; (iii) Shares are marketable securities. Debentures and other securities can be issued; (iv) In principle, shares may be freely transferred unless the bylaws provide otherwise, and provisions that render the shares practically nontransferable are null and void; and (v) Members of the board of directors: Minimum 3; maximum: no limit.

S.L.: (i) Capital divided into stock or "Participation Units"; (ii) A minimum initial capital starting from €1. However, if the initial capital is set below €3,000, shareholders shall be jointly and severally liable for the difference up to that amount in respect of debts, and a reinforced legal reserve requirement shall apply.*; (iii) Participation units are not marketable securities. Debentures and other securities can be issued; (iv) Participation units are generally not freely transferable. Pre-emptive acquisition rights in favor of the other stockholders or the company itself (unless otherwise provided in the Bylaws); and (v) Members of the board of directors: Minimum 3; maximum: 12 members.

*This applies as of October 19, 2022, by virtue of Law 18/2022, of September 28, 2022.

Both S.A.s and S.L.s are companies in which the **liability** of the shareholders or members is generally limited to the amount of capital contributed. A limited partnership ("**S. Com.**") is a partnership in which there is at least one general partner and one or more limited partners, where general partners are personally jointly and severally liable for the debts of the partnership, and limited partners are only liable for the amount of capital. Liability is not limited in a general partnership ("**S.R.C.**"), where general partners are personally jointly and severally liable with the whole of their net worth for the debts of the partnership.

As **variations on the above corporate forms** of S.A. and S.L., we should highlight the following:

- the European public limited liability company ("**S.E.**") as the possibility offered by EU legislation to create a single company capable of operating in the EU in accordance with a single set of rules,
- those newly or recently created S.A. or S.L. that legally qualify, and are recognized by the Spanish innovation public agency ENISA as, "emerging enterprises" (although subject to meeting a set of very restrictive requirements, which implies a more favorable tax regime for the Company, its investors and workers, as well as certain degree of flexibility in connection with ESOPs and with the ability to incur in losses reducing net worth to less than one-half of capital stock without triggering (until 3 years after the setting-up of the Company) the mandatory cause for dissolution;
- the professional limited liability services firm ("**S.L.P.**") or professional corporation ("**S.A.P.**") the purpose of which is the common pursuit of a professional association activity.

SPAIN

CORPORATE STRUCTURES, CONT'D

General observations regarding corporate structures in Spain:

- The shareholders (or their representatives) must appear before a notary in order to execute the public deed of incorporation of a S.A. or S.L. Subsequently, the deed of formation must be registered at the Commercial Registry. Upon registration, the company acquires legal personality and legal capacity. Law 11/2023, of May 9, allows founders to incorporate a company using standard bylaws telematically without the need to appear physically before the notary.
- To allow their recognition in Spain, public documents issued outside Spain must be duly legalized or apostilled, as well as duly translated into Spanish (by means of a sworn translation).
- No minimum number of shareholders is required by Spanish law to incorporate a company. However, sole shareholder companies (either S.A. or S.L.) are subject to a specific regime involving special reporting requirements and registration requirements.
- In addition to the forms of business enterprise created under Spanish law that constitute separate legal entities, a foreign investor may operate in Spain through a branch. It is not necessary to provide the branch with capital nor governing or management bodies other than a legal representative empowered by the head office.
- Royal Decree-law 5/2023, of June 28, provides a complete framework for cross border operations, facilitating inbound conversions and other mobility options useful in startup group re domiciliation, specially for intra EU operations.

ENTERING THE COUNTRY

As a **general rule** and until March 17, 2020, any foreign investor could invest freely in Spain without having to obtain any type of authorization or prior notification. The investor only needed to report the investment, once it was been made, within a maximum term of one month, to the Directorate-General for International Trade and Investments of the Secretary of State for Trade for statistical purposes, with the sole exception of (i) investments coming from tax havens, which were subject to a prior administrative notification; and (ii) foreign investments in activities directly related to national security, and real estate investments for diplomatic missions by non-European Union Member States, which required prior authorization by the Spanish Council of Ministers.

However, since March 18, 2020, by virtue of the Royal Decree-Law 8/2020 of 17 March and the Royal Decree-Law 34/2020 of 17 November, as amended by the Royal Decree 571/2023 of 4 July and Royal Decree 9/2024, of 23 December, foreign direct investments* affecting the Spanish public order, public security or public health or made in certain "Strategic Sectors" or made by foreign investors with "Subjective Conditions", where the investor comes to hold a stake equal to or greater than 10% of the share capital of a Spanish company or comes to effectively participate in the management or control of a Spanish company, or of a portion of the Spanish company (assets or branch of activity) are subject to a pre-filing or prior authorization obligation to be resolved by the Ministers Council of Spain. Exceptionally and until December 31, 2026, foreign direct investments made by European non-Spanish investors may also be subject to a pre-filing or prior authorization obligation when involving a listed company in Spain, or carried out on an unlisted company whose value exceeds 500 million euros.

*The direct investments affected are those made by residents from countries outside the European Union ("EU") and the European Free Trade Association ("**EFTA**"); or, by EU or EFTA investors which beneficial owners are residents of countries outside the EU and EFTA. Exceptionally, European non-Spanish investors may also be subject to a pre-filing or prior authorization obligation when involving a listed company in Spain, or carried out on an unlisted company whose value exceeds 500 million euros. This regulation is set to remain in force until December 31, 2026.

ENTERING THE COUNTRY, CONT'D

Strategic Sectors refer to foreign investments in specific industries such as critical physical or virtual infrastructures, as well as lands and real estate needed for the use of such infrastructures; critical technology and dual-use items,; technologies developed under programs and projects of particular interest to Spain; supply of essential commodities; sectors with access to sensitive data; media; and any other sectors whose liberalization to foreign direct investment is suspended by the government, when they may affect public security, public order and public health (currently none).

Foreign investors with "**Subjective Conditions**" include foreign investors directly or indirectly controlled by a third country government (including public agencies, the military or armed forces) defining control also as such term is defined under article 42 of the Spanish Commercial Code (i.e. sovereign wealth and certain pension funds and other institutional investors who are natural investors in infrastructures, energy or other long term-long return structures in Strategic Sectors); foreign investors that have made any investment or are involved in activities in sectors affecting national security, public policy and public health in another EU Member State (including activities that may be connected with the Strategic Sectors as defined above) or foreign investors party or involved as defendant in any on-going administrative or judicial proceeding in another EU Member State or in its country of origin or in a third country concerning unlawful or criminal activities.

Foreign investments are deemed to be exempt from prior authorization obligation where the turnover of the acquired companies does not exceed EUR 5,000,000 in the last accounting year for which the accounts have been closed, provided that their technologies have not been developed under programs and projects of particular interest to Spain. However, foreign direct investment will always be subject to authorization (i) when they occur in electronic communications operators in which certain conditions concur; or (ii) when they are operations relating to activities of research and exploitation of mineral deposits of strategic raw materials.

SPAIN

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any sign may qualify as a trademark — including words (such as personal names), designs, letters, numerals, colours, shapes (including packaging) or sounds — provided it is distinctive and capable of distinguishing the goods or services of one undertaking from those of others. The mark must not be generic, descriptive, deceptive, or contrary to public policy or accepted principles of morality.

Where to apply? Trademark applications may be filed (i) nationally with the Spanish Patent and Trademark Office ("**SPTO**"), (ii) regionally with the European Union Intellectual Property Office ("**EUIPO**") for protection across the EU, or (iii) internationally through the World Intellectual Property Organization ("**WIPO**") under the Madrid System, depending on the countries where protection is sought. Spanish trademark applications may be filed online via the SPTO platform, which provides a reduced filing fee.

Duration of protection? A trademark registration is valid for 10 years from the filing date and may be renewed indefinitely for successive 10-year periods upon payment of renewal fees. However, it may be revoked if the trademark is not put to genuine use for an uninterrupted period of 5 years, or if it becomes generic or deceptive in relation to the goods or services for which it is registered.

Patents

What is protectable? Inventions are patentable if they are new, involve an inventive step and are capable of industrial application. Non-patentable subject matter includes discoveries, scientific theories, mathematical methods, aesthetic creations, and rules or methods for mental acts, games or business activities. Patents are also excluded for inventions contrary to public policy, plant varieties, animal breeds, essentially biological processes for producing plants or animals, and the human body. Computer programs "as such" are generally not patentable; however, software-related inventions may qualify where they provide a technical solution to a technical problem and meet the general patentability requirements.

Where to apply? Patent applications may be filed (i) nationally with the SPTO for protection in Spain, (ii) regionally with the European Patent Office ("**EPO**") — or the SPTO as receiving office — to seek protection in designated countries under the European Patent Convention (noting that Spain is not part of the Unitary Patent system), or (iii) internationally through WIPO under the Patent Cooperation Treaty, with the SPTO or EPO acting as receiving offices depending on the countries where protection is sought.

Duration of protection? Patent protection lasts for up to 20 years from the filing date, subject to payment of annual renewal fees. For pharmaceutical and phytosanitary products, a supplementary protection certificate (SPC) may be granted to compensate for time spent obtaining regulatory marketing authorisations, extending patent protection for up to an additional 5 years, subject to applicable legal requirements.

Employees' and service providers' rights to inventions? Under Spanish Patent Law, inventions made by an employee or service provider during the term of their employment or service relationship that result from a research activity expressly or implicitly forming part of their contractual duties belong to the employer. As a general rule, the inventor is not entitled to additional remuneration, unless their personal contribution and the significance of the invention clearly exceed the scope of such duties. Where an employee develops an invention related to their professional activity within the company, and its achievement has been predominantly influenced by knowledge acquired within the company or by the use of the employer's means, the employer may either assume ownership of the invention or reserve a right of use . If the employer exercises this right , the employee is entitled to fair economic compensation, taking into account factors such as the industrial and commercial importance of the invention, the value of the means and knowledge provided by the employer, and the employee's own contribution. This compensation may consist, for example, of a share in the profits obtained by the employer from the exploitation or assignment of its rights in the invention.

INTELLECTUAL PROPERTY, CONT'D

Industrial Designs

What is protectable? The aesthetic appearance of a product — including its lines, contours, colours, shape, texture, materials or ornamentation — may be protected as an industrial design, provided it is new and has individual character. A design is considered new if no identical design has been disclosed before the filing or priority date, and it has individual character if it produces a different overall impression on the informed user compared to earlier designs. Spanish and EU design law also provide a 12-month grace period, meaning that disclosures made by the author (or by third parties based on information from the author) within the 12 months preceding the filing or priority date do not destroy novelty, allowing valid registration within that period.

Where to apply? Industrial design rights are territorial and are only valid in the country or region where they are registered. Designs may be protected (i) nationally through the SPTO for protection in Spain, (ii) regionally through the EUIPO for protection across the European Union, or (iii) internationally through WIPO under the Hague Agreement, depending on the contracting states where protection is sought.

Duration of protection? A registered industrial design is protected for an initial term of 5 years from the filing date and may be renewed for successive 5-year periods, up to a maximum of 25 years, subject to payment of renewal fees. By contrast, an unregistered Community design arises automatically upon first disclosure within the EU and is protected for 3 years from the date it is first made available to the public.

Utility Models

What is protectable? Utility models protect inventions with a lower inventive threshold, typically involving objects whose configuration or structure provides a practical or functional advantage. Unlike industrial designs, protection focuses on utility and functionality rather than aesthetics. The scope of protection granted by a utility model is broadly similar to that of a patent.

Where to apply? See comments on patent applications above.

Duration of protection? The term of protection is a maximum of 10 years from the date on which the application is filed and must be maintained by annual fees.

Topographies of semiconductor products

What is protectable? The topography of a semiconductor product will be subject to protection to the extent that it is the result of the intellectual effort of its creator and is not an ordinary product in the semiconductor industry.

Duration of protection? The duration of protection is 10 years, starting from the end of the year in which it is first exploited in the world or the topography is registered.

Copyright

What is protectable? Copyright protects literary, artistic and scientific works expressed through any means or medium, whether tangible or intangible, including books, musical compositions, audiovisual works, architectural plans, graphic works, computer programs and databases. Spanish Copyright Law also recognises neighbouring rights for performers, phonogram producers, audiovisual producers and broadcasting organisations. Copyright protection arises automatically upon creation of the work and does not require registration or any other formality; however, applications for registration can be filed with the Copyright Registry to obtain stronger evidence vis-à-vis third parties. Authors also benefit from moral rights, which are perpetual, inalienable and non-waivable.

INTELLECTUAL PROPERTY, CONT'D

Copyright, CONT'D

Duration of protection? As a general rule, copyright protection lasts for 70 years after the author's death where the author is a natural person. For authors who died before 7 December 1987, the term is 80 years from the date of death. Where the author is a legal entity, protection lasts for 70 years calculated from 1 January of the year following lawful publication of the work, or, if unpublished, from 1 January of the year following its creation.

Trade Secrets

The protection of trade secrets is governed by Spanish Trade Secrets Law 1/2019 of 20 February. Information relating to any area of a business — including technological, scientific, industrial, commercial, organisational or financial matters — may qualify as a trade secret provided that: (i) it is secret, meaning it is not generally known or readily accessible to relevant circles; (ii) it has commercial value because it is secret; and (iii) its holder has taken reasonable steps to keep it confidential.

Trade secrets protection can last as long as the information actually remains a secret.

Mandatory prior negotiation in IP disputes

Spanish Organic Law 1/2025, of 2 January 2025, introduces a significant procedural change by requiring prior negotiation as a condition for admissibility in court proceedings, including intellectual property disputes. This requirement applies only to cases initiated after the law entered into force on 3 April 2025. Under the law, parties must first attempt to resolve their dispute through an alternative dispute resolution mechanism — such as mediation, private conciliation or direct negotiation — before commencing litigation.

SPAIN

DATA PROTECTION/PRIVACY

Spanish Constitutional Law 3/2018, on Personal Data Protection and guarantee of digital rights ("LOPD-gdd"), complements the GDPR and presents the following particularities:

Child's consent: The age for child's consent in relation to the processing of their personal data has been set in 14 years.

Data Protection Officer: Article 34 of the LOPD-gdd includes a list of entities that in all cases shall appoint a data protection officer.

Sanctioning regime: The LOPD-gdd establishes a classification of infringements according to their seriousness (minor, serious and very serious) as well as the statute of limitations for each of them.

Investigation through digital means: The LOPD-gdd expressly allows the performance of investigative activities in the context of data protection infringement procedures through digital systems (e.g. video conferencing).

Warning proceeding: Within the context of an investigation triggered by a potential infringement of the GDPR, prior to the imposition of a sanction, the AEPD is empowered to issue a warning and instruct the controller or processor to implement specific corrective measures.

Digital rights: The LOPD-gdd is not only limited to the protection of personal data, but also regulates several digital rights both in the personal and labor sphere of the data subjects (e.g., right to be forgotten in search engines and social media; universal access to the Internet; digital will; right to digital disconnection; or right to privacy with respect to the use of video surveillance devices in the workplace).

Particularities regarding processing of certain special categories of personal data: Article 9.1 of the LOPD-gdd states that explicit consent shall not be sufficient to lift the prohibition on processing data whose primary purpose is to identify their ideology, trade union membership, religion, sexual orientation, beliefs, or racial or ethnic origin.

Particularities regarding specific processing activities: Title IV of the LOPD-gdd contains a set of Articles that address specific processing activities (e.g., advertising exclusion lists; credit default registers; processing of contact data of individuals representing companies; processing of personal data related to the performance of certain commercial transactions; or processing of personal data for video-surveillance purposes).

Supervisory authority: The Spanish Data Protection Authority ("**AEPD**") is the supervisory authority and has published numerous guidelines on the interpretation of the GDPR and the LOPD-gdd. These can be accessed here (some of them are available in English): https://www.aepd.es/es/guias-y-herramientas/guias. The AEPD has recently launched a new section on its website that compiles relevant legal criteria. This section can be accessed here: https://www.aepd.es/informes-y-resoluciones/criterios-juridicos-aepd.

Data protection impact assessments: The AEPD has published: (i) a list of processing operations which are subject to the requirement for a data protection impact assessment (https://www.aepd.es/documento/listas-dpia-en-35-4.pdf); and (ii) a list of processing operations which are not likely to require a data protection impact assessment (https://www.aepd.es/documento/listadpia-35-5-ingles.pdf).

SPAIN

ARTIFICIAL INTELLIGENCE

National AI legal framework. Apart from the Regulation (EU) 2024/1689 ("**EU AI Act**"), there is no specific national regulatory regime for AI in Spain. However, the general restrictions, particularly under copyright law and data privacy law, among others, apply. In this regard, the AEPD has issued several guidelines and orientations regarding the intersection of AI and data protection. These materials can be accessed via the AEPD's webpage (www.aepd.es). Also, on 11 March 2025, the Council of Ministers approved the Draft Bill on the proper use and governance of Artificial Intelligence, which develops certain aspects of the EU AI Act, which can be accessed here.

Copyright and image right restrictions. National copyright and image right restrictions are relevant for generative AI. This applies to (i) the input data (especially web scraping) and (ii) the output. The retrieval of data from the Internet into a set of training data is considered exploiting the content in a way subject to Spanish Copyright Law as well as Spanish Constitutional Law 1/1982 on civil protection of the right to honor, personal and family privacy and self-image. Only two paths can make the training lawful: consent from the right holder or relying on a legal exception (e.g., relevant historical, scientific or cultural interest, parody). Depending on whether legal requirements are met under Spanish Copyright Law, the outputs created through the use of generative AI may be considered a new work or a transformation or reproduction of the inputs used by the generative AI within the framework of the exceptions under Spanish Copyright Law and/or Spanish Constitutional Law 1/1982. In the case of a derivative work, lawful use requires either the consent of the right holder or the existence of any of the aforementioned exceptions. Also, the output of generative AI may infringe the rights of the author of the original work or of the person who holds such rights if the output is identical to or resembles an original source without having previously obtained proper consent nor relying on a legal exception.

National AI Supervisory Agency. The Spanish Agency for the Supervision of Artificial Intelligence (AESIA) is a Spanish public body responsible for the supervision, advice, awareness and training aimed at public and private entities for the proper implementation of all national and European laws and regulations applicable in Spain regarding the appropriate use and development of artificial intelligence systems. The AESIA has published several guidelines aimed to support the implementation and compliance with the EU AI Act: https://aesia.digital.gob.es/en/guides.

EMPLOYEES/CONTRACTORS

General: Employer and employee must conclude an employment contract, which stipulates their rights and obligations set forth by agreement between the parties, mandatory law and Collective Bargaining Agreements. Contracts may be subscribed on an indefinite or temporary basis, although the law stablishes that the general rule is to consider a contract as of an indefinite nature, and only allows temporary contracts to be subscribed when certain causes justify their adoption (two possible causes: temporary increase in production, or substitution of an indefinite employee who can't render services for a certain period of time).

With the 2022 labour reform by means of the Royal Decree Law 32/2021, as of 30 March 2022, the possibility of subscribing contracts for work and services disappears. However, it should be borne in mind that contracts for work and services signed prior to 31 December 2021 will remain in force in accordance with the regulations prior to the labour reform. Therefore, contractual relationships under this modality may continue to be in force for the maximum period allowed by the previous regulation. As a result, there may be contracts in this format that will continue to be extended over the next few years. For these contracts, most protective provisions of labour law do not apply, and the business party is exempted from paying social security contributions in favour of contractors, what represents a relevant economic advantage. For this reason, if it is proven that the contract for work and services is instead an employment one because it displays elements that indicate it has actually been functioning as such (dependence by the contractor party, commandment by the services recipient, ownership of the working means by the services recipient, among others), this can lead into the recognition of a fraud under Spanish labour law. The consequences for such fraud are the hiring on an indefinite basis, the payment of the social security contributions accrued during the last 4 years, as well as sanctions.

EMPLOYEES/CONTRACTORS, CONT'D

The interests of employees are represented by different representative bodies whose composition may vary significantly depending on the size of the workforce. The most prevalent one is the works council ("**Comité de Empresa**"), whose approval for adopting collective agreements affecting the general conditions of employees may be highly recommendable or even mandatory, depending on the size at stake. No work for hire regime: Spanish labor law configures a subject-to-agreement work for hire regime between employers and employees. This implies that each agreement should contain a specific clause covering the attribution of rights related to works made by the contractual parties. Such clause should be as detailed as possible, as otherwise conflicts may arise between the parties with an uncertain result. In absence of specific agreement, a presumption operates considering that every right of exploitation on the work results is owned by the employer, which shall apply unless the worker can prove it was otherwise agreed. This regime only operates within the framework of labor relationships, in cases where no employment relationship is involved, this presumption would not apply.

Registration with social security: Every employer must register employees within a social security regime and insurance carrier. In this regard, each employer has to pay a certain monthly amount under the concept of contributions in favor of the employee's social benefits. This quantity may vary depending on the employee's remuneration.

Termination: As the general rule is to subscribe indefinite-length contracts, employees are very well protected. They can only be terminated under two types of circumstances:

- Disciplinary measures: after a breach of contract by the employee or infringement of legal obligations (i.e., fraudulent behaviour, disobedience, moral attacks, etc.).
- Objective reasons: following the concurrence of economic, technical, organisational or productive causes which enable the employer to reduce its workforce by dismissing one or several employees.

Any employee can challenge the conducted termination based on the fact that the causes alleged by the employer are not true or proportional to the measure adopted. After being challenged the dismissal may be considered fair, unfair or null. Unfairness takes place whenever the termination is considered to be unjustified and implies either reinstatement of the employment relationship or the payment of an extinction severance of 33 days of salary per year of employment, with a maximum of 24 monthly salaries (from February 12, 2012) or 45 days of salary per year of employment, with a maximum of 42 monthly salaries (until February 12, 2012), choice being subject to the willingness of the employer. On the other hand, nullity occurs whenever a judge considers a breach of fundamental rights or discrimination has taken place, and implies the reinstatement of the dismissed employee, with payment of all severance and social security contributions accrued between the date of dismissal and the reinstatement date.

In addition, certain groups of employees (e.g. works council members, pregnant employees, employees on parental leave or with recognized disability status, employees in situations of illness or temporary disability) enjoy special termination protection, which implies that their dismissal may only be considered fair or null, but never unfair.

Finally, it must be noted that when a certain number of employees are dismissed at the same time for objective reasons the law prescribes a special procedure which forces the employer to negotiate collectively the conditions of the dismissal (severance payments, additional benefits, social justice measures, etc.). It may end with an agreement or not, but in case of unilateral termination the workers and representatives can challenge the dismissals both individually and/or collectively, with risk of global nullity.

SPAIN

CONSUMER PROTECTION

The core provisions in Spain* for consumer protection are laid down in the Royal Legislative Decree 1/2007, of 16 November, approving the revised text of the General Law for the Defence of Consumers and Users and other complementary laws ("**TRLGDCU**") which regulates, among others, the basic rights of consumers and users; consumer and user associations; sanctions; judicial and extrajudicial proceedings for the protection of consumers and users; contracts concluded by consumers and businesses and clauses which are considered abusive; guarantees and after-sales services; civil liability for defective goods or services; or customer services.

In addition, there are: (i) sector and **product-specific consumer laws** (e.g. Law 22/2007, of 11 July, on the distance marketing of financial services for consumers, Law 16/2011, of 24 June, on consumer credit agreements or Law 24/2013, of 26 December, on the electric sector); and (ii) certain **regional consumer regulations** (e.g. in Catalonia and in the Basque Country consumers have the right to receive the information for the purchase of goods not only in Spanish but also in Catalan and Basque, respectively).

TERMS OF SERVICE

Applicable regulation: In addition to the general legislation on civil and commercial contracts, Online Terms of Service ("ToS") are subject to a wide variety of regulations, namely, among others: (i) Distance sales regime: Law 7/1996, of 15 January 1996; (ii) Advertising provisions: Law 34/1988, of 11 November 1988; (iii) Standard contract terms: Law 7/1998, of 13 April 1998; (iv) E-commerce and information society services: Law 34/2002, of 11 July; (v) Financial services: Law 22/2007, of 11 July; (vi) Regulation 2022/2065, on a Single Market for Digital Services; and (vii) Regulation 2019/1150, on promoting fairness and transparency for business users of online intermediation services.

The applicable legislation varies depending on the potential recipient of the ToS. Therefore, when the transaction takes place between business parties ("**B2B**"), there is more room for setting the content of the ToS than if it takes place between a business party and a consumer as the final recipient ("**B2C**"). In the latter case, attention shall also be paid to the specific regulation on consumers' protection (see section 8 above).

ToS shall in all cases include a mechanism for the recipients to express their consent (e.g. via check-box) and that the business party can keep track that this consent has actually been granted, otherwise the ToS would not be enforceable.

- In B2C relations, online ToS shall include at least the business party's identity details.
- The special features of the product, price, shipping expenses and, if applicable, the cost of using the distance communication technique if it is calculated on a basis other than the basic rate basis.
- The payment method, and form of delivery or types of fulfillment of orders.
- The period for which the offer remains valid and, if applicable, the minimum term of the contract.
- The existence of a right to withdraw or terminate the contract and, if applicable, the circumstances and conditions in which the company could supply a product of equivalent price and quality.
- The out-of-court dispute resolution procedure, if applicable, in which the company participates. Remainder of the existence of a legal guarantee depending on the type of goods or services.
- Information of the cases in which the business party shall take the costs of returning the goods.

Additionally, when the final recipient is a consumer, there will be several clauses that will be considered abusive and, thus, null and void. These clauses are set forth in the TRLGDCU (see section 8 above).

In online relationships B2B2C (e.g. marketplaces intermediating between business parties and consumers), online intermediation services providers shall abide by the obligations set forth in Regulation (EU) 2019/1150, on promoting fairness and transparency for business users of online intermediation service and, therefore, include a series of provisions in its ToS with the business party client to the platform, such as internal complaint-handling systems, information on ranking parameters and the effects of the TOS on the ownership and control of intellectual property rights of business users.

TAX/FUNDING

Public Funding Alternatives for Startups in Spain: In Spain, startups have access to various public funding options to support their growth and innovation. These funding programs are designed to support startups at different stages of their lifecycle, ensuring that innovative companies have access to the necessary resources to grow and succeed.

Most notable funding programs include:

- Public sector entity Enisa offers participatory loans, which are a primary and initial funding source for innovative startups looking to accelerate their growth or implement their innovation plans. Enisa has three lines of funding: Young Entrepreneurs (25,000-75,000 euros), Entrepreneurs (25,000-300,000 euros), and Growth (25,000-1,500,000 euros). Enisa con el emprendimiento innovador.
- The Horizon 2020 European Funding Program provides substantial funding for research and innovation projects across the European Union. Horizon 2020 - European Commission
- Center for Industrial Technological Development (CDTI): The CDTI is an instrument of the Spanish Government that manages, subsidizes, and internationalizes business R&D projects. Home | CDTI

One of the most well-known programs managed by CDTI is the Neotec Program. The Neotec Program offers non-refundable grants of up to 325,000 euros for technology-based startups with a clear R&D plan. This program aims to support the creation and consolidation of Spanish technological startups by providing financial resources for their development.

Business Angels

In Spain, business angels play a significant role in supporting startups by providing not only equity capital but also their valuable experience and wide networks. These investors often contribute smaller amounts, starting from around 20,000 euros, to start ups. Business angels typically invest through various mechanisms, including convertible loans, which allow them to convert their investment into equity at a later stage, often at a discounted rate.

Several notable networks facilitate the connection between business angels and startups in Spain. ESADE BAN, AEBAN (Spanish Association of Business Angels Networks), and IESE Business Angels Network are well known organizations that bring together business angels, family offices, and venture capital firms. These networks facilitate investments and provide mentorship and strategic guidance to startups at early-stages.

Accelerators and incubators

Additionally, accelerators and incubators play a crucial role in the startup ecosystem by providing mentorship, resources, and networking opportunities to help startups grow and succeed throughout the development cycle of start-ups. These programs, which can be either public or private and operate at regional or state levels, provide a range of services including coworking spaces, specialized mentoring, media visibility, and access to investors, all without taking equity.

Most relevant accelerators and incubators in Spain include: **Andalucia Open Future (Andalucia Open Future Website); Go Hub Open Innovation (Go Hub Open Innovation Website); Mentor Day Accelerator (Mentor Day Accelerator Website); Barcelona Activa (Barcelona Activa Website); Connector (Connector Website); EIT Health (EIT Health Website); Seedrocket (Seedrocket Website)**; and **Lanzadera (Lanzadera Website)**, among others.

These programs are based either on a regional and state level and support startups across various sectors, from digital and healthcare to sustainability and aerospace, fostering innovation and economic growth.

TAX/FUNDING, CONT'D

TAX

Corporate income tax

- **Tax rate:** The general rate is 25%. However, starting in 2026, entities whose net turnover, calculated at the group level, is less than €1 million in the previous tax period will apply a 19% tax rate on the portion of the taxable base up to €50,000, with the remaining amount taxed at 21%. Additionally, a 15% rate is available for qualified startups for the first tax period with a positive taxable base and the following three years.
- **R&D and technological innovation credits:** A 25% tax credit can be availed of for expenses incurred from R&D activities. If the expenses are higher than the average R&D expenses incurred by the company during the previous two years, the tax credit is 42% for the excess amount. An additional tax credit of 17% can be availed of for staff expenses incurred for staff exclusively carrying out and qualified to carry out R&D activities.

An 8% tax credit can be availed of for investments made in tangible fixed assets (excluding buildings) and intangible assets that are exclusively assigned to R&D activities. A 12% tax credit can be availed of for technological innovation activities.

- **Patent Box:** Spain has also implemented a patent box regime in line with BEPS project.
- **Exemption for Dividends and Capital Gains:** 95% exemption on qualified dividends and capital gains, provided that the investor holds at least 5% of the share capital and meets other conditions. In the case of non-resident entities, the foreign entity must be subject to a corporate tax equivalent to at least 10% at a nominal rate or reside in a Tax Treaty jurisdiction.

Withholding Taxes on Dividends, Interest and Royalties
Outbound dividends and interest are generally subject to a 19% withholding tax, but exemptions apply under the EU Parent-Subsidiary Directive. Interest paid to EU-resident companies is also exempt. Patent royalties paid to EU and EEA residents are subject to a 19% withholding tax, while those paid to other non-residents are subject to 24%. Under the EU Interest and Royalties Directive, payments between associated EU companies are exempt from withholding tax. In all case, domestic tax rate can be reduced by virtue of the provisions of a Tax Treaty (Spain has a wide Tax Treaty network).

Personal Income Tax Incentives
Investors and employees of qualified startups can also benefit from certain tax incentives for personal income tax purposes.

VAT
Spanish VAT is based on the 6th EU VAT Directive. Entrepreneurs must charge VAT, generally. at a rate of 21% on the supply of goods and services but can deduct input VAT on related acquisitions.

WHAT ELSE?

Promotional contests: Spanish laws strictly regulate offering promotional activities (including competitions and prize draws) or services in which prizes are awarded. Because of this, businesses need to carefully consider and navigate these laws before offering any service that may consist of an opportunity for people to obtain valuable results depending on participants' skills (i.e., literary contests) or using any mechanism of random chance that does not objectively depend on any skills (i.e., prize draws or sweepstakes). Promotions subject to mechanisms of random chance are subject to the payment of a tax.

Cybersecurity (Network and Information Systems): On 14 December 2022, the Directive (EU) 2022/2555 ("**NIS 2**") was approved, repealing the Directive (EU) 2016/1148 ("**NIS**"), which aims to reinforce security requirements and eliminate divergences amongst EU members to ensure an equivalent level of cybersecurity across all the European Union, establishing requirements for the protection of networks and information systems, as well as a set of technical, operational and organizational measures that entities considered essential or important in certain sectors (such as energy, transportation, banking and financial markets, and healthcare, among others) must implement. Although it has not been officially transposed in Spain yet, a bill has already been approved as of 14 January 2025.

Cybersecurity (Digital Operational Resilience): Since 17 January 2025, Regulation (EU) 2022/2554 on digital operational resilience for the financial sector ("**DORA**") applies to all EU financial institutions, requiring them to ensure operational resilience. This entails effective management of operational risks, proactive measures against cyber threats, and the protection of customer data in compliance with data protection regulations.

Electronic signature: As regards the regulation of electronic signature in Spain, Law 6/2020, of 11 of November, on several aspects of the electronic trust services, establishes specific regulations complementing the contents of Regulation (EU) 910/2014 of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market ("**e-IDAS Regulation**") in Spain. However, since 30 April 2024, Regulation (EU) 2024/1183 ("**e-IDAS 2 Regulation**") was published in the Official Journal of the European Union, updating the version of 2014 and introducing the European Digital Identity Wallet. The wallet is being implemented across the EU. Additionally, there is a list of the Spanish electronic trust services providers published by the Spanish Ministry of Economic Affairs and Digital Transformation.

Location of public information servers: Spanish Law 40/2015 on the Legal Regime of the Public Sector establishes that information and communications systems for the collection, storage, processing and management of the electoral census, the municipal registers of inhabitants and other population registers, fiscal data related to own or assigned taxes and data on users of the national health system, as well as the corresponding processing of personal data, shall be located and provided within the territory of the European Union, with the exception of those that have been the subject of an adequacy decision of the European Commission or when so required for compliance with the international obligations assumed by Spain.

Markets in Crypto-Assets: The Markets in Crypto-Assets Regulation (Regulation (EU) 2023/1114, "**MiCA**") establishes a harmonized legal framework for the issuance, trading, and provision of services related to crypto-assets within the EU, which became applicable on 30 December 2024. MiCA classifies crypto-assets into electronic money tokens (stablecoins pegged to a single official currency), asset-referenced tokens (linked to multiple assets, including commodities or multiple currencies), and other crypto-assets (such as utility tokens), excluding NFTs, and excluding security tokens (which fall under financial instruments regulations). Also, for entities that were providing crypto-asset services under domestic law in Spain before 30 December 2024, Spain has set an 18-month transitional period so that they may continue operating until 1 July 2026, or until they are granted or refused a MiCA licence, whichever is sooner.

WHAT ELSE?, CONT'D

EU Data Act: Regulation (EU) 2023/2854, which came into force on 12 September 2025, introduces a wide range of provisions aimed at improving data access, sharing, and reuse within the European Union – applying to both personal and non-personal data.

Omnibus proposals: The European Commission has presented proposals to simplify and revise the EU's digital regulatory framework, including the GDPR, the AI Act and the Data Act. Notable developments include changes in the definition of "personal data" included in the GDPR, a single notification point for cybersecurity incidents, new rules and timelines under the AI Act, the promotion of regulatory sandboxes, and significant changes to obligations for mid-caps. Therefore, in the next months there may be important developments to some of the regulations that have been quoted in this chapter. The text of these proposals can be accessed in the following links: (i) Digital Omnibus Regulation Proposal: https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-regulation-proposal; and (ii) Digital Omnibus on AI Regulation Proposal: https://digital-strategy.ec.europa.eu/en/library/digital-omnibus-ai-regulation-proposal.



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LEGAL FOUNDATIONS

The Swedish legal system is a civil law system, which is demonstrated by the reliance on statutory law. However, the structure of the Swedish legal system differs somewhat from other civil law traditions in countries such as Germany and France. The Swedish legal system is more dependent on case law than many other civil law systems as the judgements of the Supreme Court of Sweden (Sw: Högsta domstolen) and the Supreme Administrative Court (Sw: Högsta förvaltningsdomstolen) fill out any gaps in the legislation and provide binding guidance on how the statutes should be interpreted. In addition, the Swedish civil code is not as comprehensive as, for example, the German one. As a result, the case law becomes of greater importance as to fill out the gaps of the civil code in a manner that is more like the common law system. This duality is what characterizes the Nordic model of jurisprudence, which is neither a fully civil law system nor a part of the Anglo-Saxon common law systems. Moreover, Sweden does not have any provincial regulations, all legislative power stems from the Swedish Parliament (Sw: Riksdagen) and all laws apply throughout the country.

The Swedish legal system is based on a written constitution which includes four fundamental laws; the Instrument of Government, the Act of Succession, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. These fundamental laws take precedence over all other law. Furthermore, written statutes are the supreme sources of law in Sweden, supplemented by preparatory works and precedents from the Supreme Court. As Sweden is a member state of the European Union, this also means that Swedish law is subject to the legal acts of the European Union.

The courts in Sweden are divided into two independent systems. The general courts handle civil and criminal cases and consists of the Supreme Court (Sw: Högsta Domstolen), Courts of appeal (Sw: Hovrätt), and Districts courts (Sw: Tingsrätt). The administrative courts deal with cases relating to disputes between individuals and public authorities. These include the Supreme Administrative Court (Sw: Högsta Förvaltningsdomstolen), the Administrative courts of appeal (Sw: Kammarrätt) and the Administrative courts (Sw: Förvaltningsrätt). There are also several special courts in Sweden, such as the Labour Court (Sw: Arbetsdomstolen) and the Patent and Market Court (Sw: Patent- och Marknadsdomstolen).

CORPORATE STRUCTURES

The most relevant corporate structures in Sweden are:

Limited company (Sw: Aktiebolag, AB)

Limited companies are the most common form of business association in Sweden and can be started by either one or more natural or legal persons. A limited company is a legal entity with its own rights and responsibilities that, consequently, can enter into agreements and debts in its own name. As the name suggests, the shareholders to a limited company are not personally liable for the obligations of the limited company.

In Sweden, there are two types of limited companies, private and public ones. Public limited companies may issue shares to the public and list its shares on a stock market. To set up a public limited company, the invested share capital shall amount to no less than SEK 500,000. A private limited company only requires an invested share capital to no less than SEK 25,000. A limited company is managed and represented by a board of directors, elected by the shareholders. The board of directors oversees the general matters of the company, makes the main business decisions, and appoints the managing director who is responsible for the day-to-day management of the company pursuant to guidelines and instructions issued by the board of directors. At least half of the members of the board of directors as well as the managing director shall be resident within the EEA. However, the Swedish Companies Registration Office (Sw: Bolagsverket) may grant exemptions from the requirements. If all members of the board of directors reside outside of Sweden, the company must have a representative in Sweden. Public limited companies need to have a minimum of three board members, whilst private limited companies only need to have one. Additionally, public limited companies shall appoint a managing director, which is optional for private ones.

When starting a limited company, a memorandum of association and articles of association must be drawn up and signed by the founders. Thereafter, not later than six months after drawing up the memorandum of association, an application for registration of the limited company must be submitted to the Swedish Companies Registration Office. Apart from founding and registering a limited company from scratch, it may also be an option to acquire an already existing limited "stored" company, set up solely in order to be sold as a finished solution. This is called "lagerbolag" in Swedish.

Trading partnership (Sw: Handelsbolag, HB)

A trading partnership is formed by an agreement between at least two natural or legal persons that stipulates that the parties will engage in business jointly in a partnership. A trading partnership is a legal entity. However, as opposed to limited companies, the partners are personally and jointly liable for the obligations of the business such as inter alia, debts and entered agreements through their private economy. The joint liability entails that each of the partners can be personally forced to pay the whole debt from a debtor. However, the partner who has paid may subsequently pursue the other partners for their share of the debt. To set up a trading partnership, the partners must agree to engage in business jointly in a partnership, and thereafter apply for the registration of the company at the Swedish Companies Registration Office. There are no requirements of invested capital. In the case of foreign partners in trading partnerships, a certified copy of their passport, or in case it is a legal entity, certificate of registration, must be submitted as a part of the application to the authority.

Limited partnership (Sw: Kommanditbolag, KB)

Limited partnerships are similar to the aforementioned trading partnerships, with the difference that at least one member must take on a general liability while at least one member only will have a limited liability. The limited liability means that one or more partners has reserved the right to not be held liable for more than the amount they have contributed to the partnership.

Sole trader (Sw: Enskild näringsverksamhet)

This corporate structure is basically a person who runs a business on his or her own. A sole trader does not constitute a legal entity in itself. In order to be registered as a sole trader, you must have a Swedish identity or a co-ordination number. There are no requirements of minimum capital to start the business. The sole trader is personally liable for all the contracts and debts of the company.

SWEDEN

ENTERING THE COUNTRY

Generally speaking, there are no major investment restrictions in Sweden. Nevertheless, there a few regulations to be aware of regarding certain specific sectors.

To begin with, the Swedish Protective Security Act (Sw: Säkerhetsskyddslagen) sets out various obligations in relation to transactions that involves a Swedish entity operating in security-sensitive activities. If so, the seller is required to notify and receive an approval from a reviewing authority before the transaction is completed. The act is not just aimed towards activities related to military or police operations, but rather to all activities of importance for national security. This could, for instance, include energy and water supplies, vital infrastructure, transport, healthcare, and telecommunications. If the requirements are not met, the transaction in question may be held invalid.

In addition to the Protective Security Act, a new regime based on the EU FDI Regulation 2019/452, the Swedish FDI Act, started to apply from the first of December 2023 (Sw: Lag om granskning av utländska direktinvesteringar (2023:560)). The primary objective of the new Swedish FDI Act is to establish a screening mechanism for foreign direct investments in Sweden, enabling the authority, the Inspectorate of Strategic Products (the "ISP"), to either prohibit or impose conditions on transactions that may pose a threat to Sweden's national security, public order, or public safety. The scope of application is significantly wider than the scope of the Protective Security Act, covering investments in sectors designated as "Activites Worthy of Protection". Such activities are divided into seven subcategories; (i) Essential services, (ii) Security-Sensitive Activities, (iii) Critical raw Materials, Metals or Minerals, (iv) Sensitive Data of Location and Personal Data, (v) Military Equipment, (vi) Dual-use Products, and (vii) Emerging Technologies or other Strategically Protected Technologies. The Swedish FDI Act applies when a foreign investor acquires control, either directly or indirectly, over a company engaged in an Activity Worthy of Protection. Such control may be acquired, for instance, through the acquisition of a board position or rights in shareholder agreements, or through the acquisition of voting rights at or above certain thresholds, namely 10, 20, 30, 50, 65 or 90 percent. This also applies to asset transactions, i.e. even if only certain assets of a business are transferred, the transaction may fall within the scope of the Swedish FDI Act. An investment falling within the scope of the Swedish FDI Act must be notified to and permitted by the ISP before the investment is completed.

The Swedish FDI Act sets forth various requirements with regards to what the notification must contain. Non-compliance with the Swedish FDI Act may render in penalties of SEK 25,000 up to SEK 100 million.

Sweden is also subject to the EU competition law regime, implying that merger controls may need to be carried out before the transaction can be completed. For example, the Swedish Competition Authority (Sw: Konkurrensverket) must be notified when a merger between undertakings takes place and where certain thresholds are exceeded.

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INTELLECTUAL PROPERTY

The main protectable IP-rights in Sweden are the following:

Trademarks

What is protectable? A trademark may consist of any signs, including words, figures, letters, numerals, names, colours, sounds, and slogans, as long as they are of a distinctive character and may be clearly reproduced in the trademark database of the Swedish Patent and Registration Authority (Sw: Patent- och registreringsverket, PRV).

Where to apply? Trademark applications can be filed either to the PRV, the European Union Intellectual Property Office (EUIPO) or the World Intellectual Property Organization (WIPO) under the Madrid System, depending in which territories the trademark protection is sought. Applications for trademark protection in Sweden can be filed to PRV through their e-service. When PRV has received the application, they will check whether the criteria for the application are met and if so, it will become visible in the Swedish Trademark Database. PRV will thereafter examine the application and decide whether the trademark shall be registered or not. If the trademark is registered, the opposition period of three months starts. When the trademark is registered, it is published in the Swedish Trademark Gazette. Note that an exclusive right to a trademark may also be acquired without registration if the trademark is considered established on the market by being known to a significant portion of the relevant public.

Duration of protection? A trademark registration is valid for ten years and may subsequently be renewed.

Costs? The application cost for registration of a Swedish trademark through the e-service is SEK 2700 with an additional fee of SEK 1000 for each additional class.

Copyright

What is protectable? Copyright protects all literary and artistic works that fulfil the requirement of originality. Examples of works that can be protected are texts, computer programs, music, movies, visual art, photographs, architecture and applied art.

Where to apply? Copyright arises automatically when the work is created. No registration is required.

Duration of protection? Copyright protection applies during the whole lifetime of the creator and for another 70 years after his or her death.

Costs? There are no costs relating to copyright protection of a work.

INTELLECTUAL PROPERTY, CONT'D

Patents

What is protectable? Patents may be granted for technological solutions to a technical problem. The invention must be new, differ essentially from what is known before the date of filing, and have industrial application.

Where to apply? There are today three ways to obtain a patent in Sweden: through the PRV, through the European Patent Office (EPO) or through the International Patent System (PCT). The application must always be submitted to a registry authority. Patent protection is granted on a country-by-country basis, which means that the applicant must actively register the patent in Sweden to obtain protection here. However, a new unitary system called Unified Patents and the Unified Patent Court (UPC) has now entered into force within the EU. The UPC system seeks to enable entities to obtain patent protection in the member states by submitting only one single application.

Duration of protection? A patent is valid until 20 years have passed since the patent application was filed. However, an annual fee must be paid to keep the patent in force.

Costs? The fee of filing an application for a national patent is SEK 3000, consisting of a registration fee of SEK 500 and a search fee of SEK 2500. Note that this does not include the annual fees which will also be added.

Designs

What is protectable? The appearance and shape of a product may be protected as a design if it differs from all previous known designs and has individual character. The function of a product or the underlying idea behind it cannot be protected.

Where to apply? In order to obtain design protection in Sweden, an application must be sent to the PRV. It is also possible to obtain a community design valid throughout the EU, by applying through the EUIPO. To protect a design in several parts of the world, an application for international registration may be filed to the WIPO.

Duration of protection? The registration of a design is valid for a period of five years from the date of application. However, it is possible to extend the registration for up to 25 years.

Costs? The cost of filing a national registration for one design through PRV:s e-service is SEK 2000.

Trade secrets

What is protectable? The protection of trade secrets can be described as an alternative to the traditional intellectual property rights to protect important know-how and other information regarding a business. According to the Swedish Trade Secrets Act (Sw: Lag om företagshemligheter (2018:558)) the term "trade secret" refers to, in short, information that concerns the business operational circumstances in a trader's business that is not generally known or readily available to individuals. Furthermore, it is required that the holder has taken reasonable measures to keep the information secret and that the disclosure of the information would likely cause competitive damages to the holder. To unlawfully disclose a trade secret is considered a crime in Sweden.

Where to apply? There is no application procedure for information to be regarded a trade secret.

Duration of protection? As long as the trade secret is kept a secret.

Costs? No costs.

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DATA PROTECTION/PRIVACY

Since Sweden is a part of the EU, the GDPR applies. However, the Swedish Data Protection Act supplements the GDPR and specifies several provisions that are more or less particular for Sweden, including:

- Under current Swedish law, the GDPR is subsidiary to the constitutional Swedish Freedom of the Press Act and the Fundamental Law on Freedom of Expression. Personal-data processing carried out within a constitutionally protected activity (e.g., a database with a publishing certificate) has generally been viewed as falling outside the GDPR. This understanding has now been set aside by a 2024 ruling, by the Supreme Administrative Court (HFD) where it was established that the GDPR takes precedent over Swedish publishing certificates when it comes to publications of special categories of data, such as health data. This precedence is also being challenged in the Lexbase case (C-199/24) before the CJEU, which examines whether Sweden may exempt the publication of criminal judgments from the GDPR on the basis of YGL. The Advocate General has taken the view that the GDPR cannot be displaced by national constitutional rules in this way; instead, Article 85 GDPR requires targeted derogations, while the core GDPR framework must still apply. If the Court adopts this view, the Swedish model may need significant legislative adjustment. Otherwise, the GDPR fully applies, but may be complemented by sectoral regulations in certain areas. Apart from the Swedish Data Protection Act, these sectoral regulations are, inter alia, the Patient Data Act, the Camera Surveillance Act, the Credit Information Act, and the Whistleblowing Act. The Swedish Data Protection Act imposes a specific obligation of confidentiality for Data Protection Officers. Several provisions in the GDPR do not apply to the processing of personal data for journalistic purposes.
- The age at which children can give their own consent to the processing of their personal data in relation to information society services is 13 years old.
- Certain rules that specify when the processing of special categories of personal data is allowed, for example when special categories of personal data may be processed by public authorities or within the health and medical system. The act also includes certain rules regarding when information on criminal convictions may be processed.
- The act imposes specific restrictions on the processing of personal identification numbers (SW: personnummer). Such processing may only be carried out without the consent of the data subject if it is clearly justified by the purpose of the processing, the importance of secure identification or another legitimate reason.
- The rules in the GDPR regarding the right to information and access to personal data may be limited in relation to information that the data controller is prohibited from disclosing according to Swedish law or a decision issued by a public authority (for example, concerning secrecy). The right to access is also limited in relation to personal data included in a text that has not yet been finalised when the request is made and in relation to personal notes.
- The Swedish Authority for Privacy Protection (Sw: Integritetsskyddsmyndigheten, IMY) can, apart from imposing fines on private entities, also impose fines on public authorities. For violations referred to in Article 83(4) of the GDPR, the maximum fine is SEK 5 million when imposed on public authorities, and for violations referred to in Articles 83(5) and 83(6) of the GDPR, the maximum fine is SEK 10 million when imposed on public authorities.

IMY is the competent Swedish supervisory authority, responsible for enforcing and overseeing compliance with the GDPR in Sweden. IMY has issued guidelines regarding various matters in relation to data protection in Sweden.

DATA PROTECTION/PRIVACY, CONT'D

Providers of connected products (IoT) and related services, as well as cloud and edge providers, must, in addition to the GDPR, also comply with the EU's Data Act (Regulation (EU) 2023/2854), which is directly applicable in Sweden and other Member States from 12 September 2025. The Data Act aims to make data more accessible and fairly shared by giving users of connected products greater control over the data they generate and clarifying who may use which data and under what conditions. Key obligations include (i) making user-generated product data available to customers and, on request, to third parties, (ii) enhancing pre-contractual transparency about what data is generated and how it is used before agreements are concluded, and (iii) enabling customers to switch data or cloud providers under regulated conditions. Organisations navigating both GDPR and Data Act should begin by mapping their data flows to distinguish personal, non-personal, and mixed datasets, and for each category identify the applicable obligations and lawful bases for processing.

Cybersecurity

Sweden is implementing NIS2-directive through a new national Cybersecurity Act (Sw: Cybersäkerhslagen (2025:1506)) that entered into force on 15 January 2026. Companies in designated sectors - including digital infrastructure, B2B ICT service management, certain manufacturing industries, research activities, and other NIS2-covered areas - must determine whether they fall within the scope of the new Cybersecurity Act. All entities that are covered are required to register with the Swedish Civil Defence and Resilience Agency ("MCF"), which has launched a mandatory notification portal (opened 2 February 2026). Once in scope, organisations must implement risk-management, supplier-management, and incident-management processes in accordance with the Act and forthcoming regulations. They are also subject to incident-reporting obligations, with MCF providing the reporting channel through which incidents must be notified.

The Digital Operational Resilience Act (DORA) has been fully applicable in the EU, and Sweden, since 17 January 2025. National enforcement and designation of competent authorities (the Financial Supervisory Authority, Sw: Finansinspektionen)is regulated by Swedish complementary law. . It applies broadly across the financial sector—covering banks, insurers, investment firms, payment institutions, crypto-asset service providers, pension funds and others—as well as ICT third-party providers designated as critical. Once in scope, entities must implement an EU-harmonised framework for ICT risk management, report major ICT-related incidents to authorities, carry out digital operational resilience testing, and manage ICT third-party risk in line with DORA's contractual and oversight rules, including participation in cyber-threat information-sharing where relevant.

Additionally, the EU Cyber Resilience Act will, from 11 September 2026, require vulnerability reporting, and from 11 December 2027 impose broad cybersecurity obligations for all products with digital elements (including software). Companies developing or marketing connected products, apps, or software in the EU should conduct a CRA gap analysis (secure development, SBOM, patching, CE assessment).

SWEDEN

ARTIFICIAL INTELLIGENCE

Sweden intends to be one of the leading nations within AI, and the Swedish government is actively engaged in the development and utilization of AI. A few years ago, the government issued a special AI Strategy Report, which sets out the overall direction of AI in Sweden in order to create a basis for future policy actions, with a focus on education, research, innovation, and infrastructure. Towards the end of 2023, the government also established the Swedish AI Commission consisting of experts from both academia, private sector, and public sector. In November 2024, the AI Commission presented a report titled "Roadmap for Sweden" (Sw: Färdplan för Sverige) aimed at providing Sweden with a clearer direction for the future of AI and to inspire the Swedish society as a whole to jointly take on both the challenges and opportunities presented by AI development. This roadmap has since been formalised in an official Government report (SOU 2025:12) and submitted enable faster implementation, and the Government is now working to adopt it as the basis for a comprehensive national AI strategy, planned for release in the first half of 2026.. Another organization worth mentioning in this regard is AI Sweden, a national center for applied AI research and innovation.

There are currently no specific national regulations governing AI in Sweden. However, since Sweden is a part of the EU, the EU AI Act is fully applicable in Sweden. The AI Act was entered into force on 1 August 2024, but will be applied in stages where most of the provisions will be applicable from 2 August 2026. The Government decided to appoint an investigation to assess the need for national adaptations in relation to the EU AI Act, which was published in September 2025.. In the investigation (SOU 2025:101), the Government proposes complementary national legislation to supplement the EU AI Act. This includes: a new national law and ordinance to house Swedish add-on provisions; the Swedish Post and Telecom Authority (sw: Post- och telestyrelse) designated as the coordinating market-surveillance authority and national single contact point; a network of sector authorities (e.g., IMY and the Medical Products Agency) sharing supervision over high-risk and prohibited AI; sanction powers that can also apply to public bodies (courts excluded); and a national AI regulatory sandbox to be in place by 2 August 2026. For startups, this means you'll interact primarily with PTS for coordination, expect sector-specific oversight depending on your product domain, and you can leverage the sandbox for early compliance testing and documentation.

Swedish legislation is in general technology-neutral, which entails that the general regulations within areas such as consumer protection, intellectual property, data protection, and product safety may also be applicable to AI applications. The same applies with regards to specific sectoral regulations within certain areas, such as healthcare, financial services, and transportation.

The following are some general considerations for a start-up to consider developing or using an AI application:

- IP protection of an AI algorithm – First of all, the underlying code (object and source code) may be protected by copyright as a computer program. Besides copyright protection, it may also be possible to protect AI through a patent, if the AI application is part of a patentable technical solution. Furthermore, AI can be protected within the business as a trade secret, if the requirements in the Swedish Trade Secrets Act are duly fulfilled.
- IP created by employees - Except for copyright protected computer programs, the right to intellectual property created by an employee is not automatically transferred to the employer in Sweden. It is, thus, strongly recommended that the assignment of any IP created within the employment is regulated in the employment agreement.
- Right to use training data – If the AI is trained on any material protected by intellectual property rights, a license from the rightsholders may be required to use the material in a lawful manner. Such material can, e.g., be text, images, or code. If copyright protected material is used without the prior consent of the rightsholders, there is a risk that this will be considered an unlawful reproduction of the works. This is mostly relevant for generative AI, and there is yet no Swedish case law in the area of generative AI.

ARTIFICIAL INTELLIGENCE, CONT'D

- Use of personal data – If any personal data is used within the AI application, e.g., as part of the training data, the GDPR will apply. This, in turn, means that the requirements of the GDPR must be complied with, including having a legal basis for conducting the processing and that the processing complies with the fundamental principles. Further, data subjects must be duly informed, and it must be safeguarded that the rights of the data subjects are fulfilled. If the AI application uses data that falls under the EU Data Act — for example data generated by connected products or related services, or data subject to data sharing obligations — the requirements of the Data Act must also be observed. The Data Act applies to both personal and non-personal data and complements the GDPR without replacing it. It establishes rules for data access, sharing, and cloud service interoperability.
- Liability for the output – It is important to clearly regulate the issue of liability in case the AI application, e.g., would generate any harmful or inaccurate content that affects the users. This can be regulated in, e.g., terms of service or customer contracts. The proposed AI Liability Directive—intended to introduce EU-wide liability rules for harm caused by AI—was withdrawn. This means that no EU-wide AI-specific liability regime will be introduced for now. Currently, liability for AI-related harm will remain governed by national laws alongside the newly revised EU Product Liability Directive. The EU modernised the directive, which covers, among other things, software and AI systems. Member States must implement the directive by 9 December 2026.

EMPLOYEES/CONTRACTORS

General – Two of the key features of Swedish employment law are the comprehensive rights of the employee's and the importance of collective bargaining agreements between the parties in the labour market. The most important regulations regarding employees in Sweden are the Employment Protection Act and the Co-Determination Act. If the terms in an employment agreement restricts the rights of the employee under the Employment Protection Act or the rights and obligations of the Co-Determination Act, the terms will be deemed invalid.

Collective Bargaining Agreements – the employment laws of Sweden are widely supplemented by so-called collective bargaining agreements, entered by an employer or an employer-representative organisation and an employee-representative organisation. The Co-Determination Act sets out the rules concerning this type of agreements and stipulates various negotiation and information requirements. Most of the large employers are bound by collective bargaining agreements, whilst smaller employers might not be.

The Employment Contract – There are no requirements for an employment contract to be entered into in writing. However, the employer must, inter alia, provide information regarding the important terms of employment within one month from the employee started working. Most of the employment contracts applies until further notice, but fixed term contracts may be concluded under specific circumstances. It is common that the first six months of the employment is a probation period which thereafter turns into an indefinite employment. Unlike many other countries, Sweden does not have a statutory minimum wage. However, the wages are normally regulated by the collective bargaining agreements.

Contractor Agreements – If it is not an employment relationship, but rather the provision of a service or product, a company may offer a consultant a contractor agreement instead of an employment agreement. The Employment Protection Act does not apply to contractors', and contractors are, subsequently, less protected than employees. However, in certain cases an independent contractor may be considered as an employee depending on the circumstances. It is worth noting that a new provision in the Swedish Agency Work Act (Sw: Lag om uthyrning av arbetstagare (2012:854)), commonly referred to as the "24-month rule", became applicable in October 2024. The rule applies to consultants hired through an agency and entails that, depending on the specific circumstances, companies may be obliged to offer such consultants employment or compensation if they have worked for the company for more than 24 months (within 36 months).

EMPLOYEES/CONTRACTORS, CONT'D

Foreign employees – the Swedish employment regulations is applicable to all employees who perform work in Sweden. However, so-called "posted workers" that have been sent to Sweden by their employer for a limited period are only covered by certain provisions of the Swedish employment legislation. Non-EU workers must in most cases obtain a work permit from the Swedish Migrancy Agency to be allowed to work in Sweden. All companies with employees in Sweden must pay social security contributions, regardless of whether the employees are Swedish or foreign.

No "work for hire" regime – There is no general "work for hire" regime in Sweden. As a general rule, the employee retains the copyright for any works he or she has created. Thus, it is normally regulated in the employment agreements that any intellectual property rights generated within the employment, is transferred to the employer. However, the copyright to a computer program created by an employee as a part of his or her employment is automatically transferred to the employer. Regarding patents, the employer automatically acquires the right to utilise patentable inventions created by an employee. Nonetheless, the employee still has a right to reasonable compensation for the invention.

Termination of employment - Termination of an employment for an indefinite term will be effective after a certain notice period. The minimum notice period according to the Employment Protection Act is one month, but a longer notice period is often agreed on in the employment agreement. Furthermore, an employment may only be terminated because of objective reasons for dismissal. There are two acceptable causes for dismissal, namely reasons relating to the employee personally (requires that the employee has considerably misbehaved) or redundancy. In case of dismissal because of redundancy, employees shall generally be dismissed by order of time they have been employed (the so-called "last in, first out principle"). The above-described restrictions do not apply during a probation period.

CONSUMER PROTECTION

The Swedish consumer protection legislation is relatively strict, including regulations such as the Swedish Consumer Sales Act, the Consumer Services Act, the Consumer Credit Act and the Distance and Off-Premises Contracts Act. One key feature of the consumer legislation is that it is mandatory. As a consequence, contract terms which, in comparison to the provisions in the consumer acts, are to the detriment of the consumer, are basically unenforceable against the consumer.

The Consumer Sales Act generally apply when a consumer buy products from an undertaking. One of the main provisions of the act is that all consumers enjoy a right to complaint (Sw: reklamationsrätt) regarding defects in the product that are discovered within three years after buying the product in question. Furthermore, the Consumer Sales Act stipulate consumer friendly rules concerning, inter alia, the burden of proof in relation to defects, the consumers rights when the delivery is delayed, and a right to cancel an order before it has been delivered. In the wake of the new EU directives regarding consumer protection, the Consumer Sales Act was during 2022 modernized in order to strengthen consumer protection in relation to digital purchases.

The Consumer Services Act apply, as the name suggests, to contracts for the supply of services to consumers, and the Consumer Credit Act apply to credits which an undertaking offer to consumers. These regulations do also set out consumer-friendly rules as the Consumer Sales Act but in relation to these types of services.

The Distance and Off-Premises Contracts Act apply specifically when a company sells goods or services remotely, for example through web shops. Among other things, the act requires companies to provide certain information to the consumer before selling products or services. Furthermore, it provides the consumer the general right to withdraw his or her purchase within 14 days after receiving the "item".

The Government published in December 2025 a proposal that introduces stricter requirements for digital distance contracts, with a major focus on strengthening the consumer's right of withdrawal through a mandatory, easy-access withdrawal function across financial and non-financial distance agreements. This means that B2C-entities must implement a clear, online "withdrawal button" that enables consumers to exercise their right of withdrawal without friction, and ensures that the process is as simple as signing up. The rules also require more accessible pre-contract information and prevent interface designs that could complicate or discourage withdrawal. These changes mean revising customer flows, digital UI, and compliance routines to meet higher consumer-protection standards. The amendments are expected to enter into force on 19 June 2026

The Swedish Consumer Agency (Sw: Konsumentverket) oversees compliance with Swedish consumer protection laws and issues guidelines regarding the application of the rules. In addition, there are also a National Board for Consumer Complaints (Sw: Allmänna reklamationsnämnden, ARN) in Sweden. The main task of ARN is to issue non-binding resolutions of disputes between consumers and undertakings. It is free of charge for a consumer to file a complaint to ARN.

TERMS OF SERVICE

Concerning Business-to-Business relations, the principle of freedom of contract prevails in Sweden and there are generally no restrictions with regards to terms of service. When it comes to Business-to-Consumer relations, on the other hand, there are various rules to be aware of. To begin with, the terms of service must be made available to the consumer, for example, on the website. The terms of service do not have to be in Swedish, but it may be preferable since they must be clear and understandable for the consumer. Furthermore, provisions within the terms of service will not be enforceable if they are considered unfair to the consumer. An example of what is considered unfair is when terms are not in compliance with the aforementioned consumer protection legislation.

The Distance and Off-Premises Contracts Act stipulates several information requirements for actors within e-commerce. Amongst other things, the company in question must inform consumers about contact details, the main characteristics of the goods or services, the price of the goods or services (including taxes and delivery charges), the terms and conditions for payment (including payment methods), the consumers statutory right to complain, and information regarding the right to withdraw, before entering into the agreement with the consumer.

The company has the burden of proof that the consumer has received and accepted the terms of service. In other words, it is of importance to be able to demonstrate that the consumer has accepted the terms.

It may be worth mentioning that the EU Digital Services Act is now applied in Sweden, as of the 17 February 2024. The act applies to a number of intermediary service providers, such as online marketplaces, search engines, web-hosting services, cloud services, and social media services. For such service providers, they must, in addition to the minimum requirements according to EU consumer protection law, include information in their terms of service about what content users are not allowed to upload to the service and about the policies, procedures, etc., used for content moderation purposes within the service.

For connected products/services and cloud/edge services, contractual terms must, from 12 September 2025, also comply with the Data Act's requirements for pre-contractual transparency. You must clearly disclose, before contract conclusion, the types, formats, volumes, storage locations and retention periods of product/related-service data, plus how users can access, retrieve or erase it. Users gain statutory rights to obtain their data (and necessary metadata) without undue delay, free of charge, in a structured, machine-readable format, and—where relevant—in real time; Terms must not make these rights unduly difficult to exercise. Users may also instruct providers to share data with eligible third parties, and the terms must explain the process and applicable limitations.

TAX/FUNDING

Tax

Companies and branches that conduct business in Sweden are liable to pay tax in Sweden. The corporate income tax rate is 20.6%, which is one of the lower rates in Northern and Western Europe. This tax applies to all limited liability companies (SW: Aktiebolag, AB) and is levied on the net profit of the business.

For investors, dividends and capital gains from shares are generally taxed at 30%. However, for closely held companies (Sw: fåmansföretag), the so-called 3:12 rules apply. These rules determine how much of the dividend is taxed as capital income (30%) and how much is taxed as personal income (progressive rates up to 57%). This can result in a lower tax rate on some dividends, while others are taxed at higher personal income tax rates.

When a Swedish company distributes dividends to a shareholder residing outside Sweden, a withholding tax of 30% is deducted from the payment. However, there are several reductions and exemptions available (e.g., due to treaties with other countries).

Sweden applies VAT (Sw: Moms) on most goods and services. The standard VAT rate is 25%, but there are reduced rates of 12%, e.g., for food, restaurants, and hotel services, and 6%, e.g., for books, cultural events, and public transport. Some services, such as medical care and education, are exempt from VAT. With regard to start-ups, small businesses with an annual turnover of less than SEK 120,000 may opt for VAT exemption.

Companies that employ staff in Sweden are generally required to pay social security contributions, which amount to 31.42% of an employee's gross salary. These contributions cover, among other things, pensions, health insurance, and other social benefits. However, reduced rates apply in some cases (e.g., for young employees and startups).

Funding

In Sweden, smaller companies can apply for funding from the Swedish Innovation Agency (Sw: Vinnova). Vinnova provides grants for innovation-driven projects that have the potential to benefit society, for instance, through climate-smart solutions, AI applications, or sustainable energy innovations. It is important to note that in order to receive funding, the company must have an establishment in Sweden and may only receive funding for costs incurred in Sweden. Further information on funding from Vinnova is available at: https://www.vinnova.se/en/apply-for-funding/.

Another way to access funding in Sweden is through Almi, a state-owned financial institution that provides both loans and venture capital to companies with growth potential. Almi offers risk loans, which are designed for businesses that, e.g., do not yet qualify for traditional bank financing, and may also co-invest with private investors in promising start-ups. Further information on funding from Almi is available at: https://www.almi.se/en/.

Furthermore, the Swedish Agency for Economic and Regional Growth (Sw: Tillväxtverket) offers development grants to SMEs aiming for, e.g., growth, digitalization, and sustainability. Some grants are regionally focused, supporting businesses in less populated or less developed areas. Further information on funding from the Swedish Agency for Economic and Regional Growth is available at: https://tillvaxtverket.se/tillvaxtverket/inenglish/financing.2911.html.

TAX/FUNDING, CONT'D

Funding, CONT'D

Additional funding sources include Industrifonden, which provides venture capital for scaling innovative Swedish start-ups mainly in the technology and life science sectors. Further information on funding from Industrifonden is available at: https://industrifonden.com/.

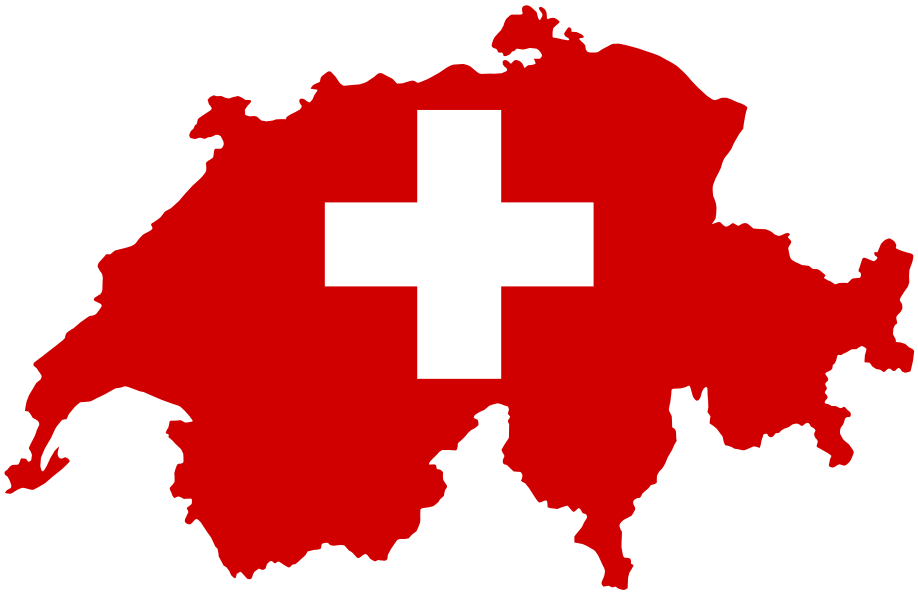
In addition to the funding sources mentioned above, there are also several hubs and networks for startups that can act as a bridge between startups and investors. These include Stockholm Innovation & Growth (commonly referred to as "Sting", more information available at: https://www.sting.co/), Arctic Business Incubator (more information available at: https://abi.se/), Norrsken Foundation (more information available at: https://www.norrsken.org/), Inkubera (more information available at: https://inkubera.se/), SSE Ventures (more information available at: https://www.hhs.se/en/outreach/sse-initiatives/sse-business-lab/sse-ventures/), Chalmers Ventures (more information available at: https://chalmersventures.com/), Ideon (more information available at: https://ideon.se/), Ignite Sweden (more information available at: https://www.ignitesweden.org/), to name a few. The Swedish Incubators & Science Parks website also provides information on several other hubs, networks, etc., that may be of interest to start-ups in the Swedish market (available at: https://www.sisp.se/).

WHAT ELSE?

Incentive programs – incentive programs are a relatively common practice in Sweden when seeking to keep and attract key personnel within a company. An incentive program can, in brief, be described as providing future ownership in the company or monetary bonuses to employees. An example of an incentive program is so-called options, which in this case represents a right for an employee to acquire shares in the future at a set price. An option may be based on an agreement or based on a security, which includes, for example, warrants.

- Employee stock options – not a security in itself but a right to acquire a security (shares) in the future. Closely tied to the employment and there are normally restrictions in relation to transferring the options.
- Qualified employee stock options – not a security in itself but a right to acquire a security (shares) in the future. Designed for smaller companies and surrounded by various requirements.
- Warrant programs – a warrant is considered as a security that imposes a right, under certain circumstances, to acquire newly issued shares within a set period of time. Warrants are not as closely tied to the employment, and they are freely transferable.

Note that all of the aforementioned categories of options are taxed differently.



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SWITZERLAND

LEGAL FOUNDATIONS

Switzerland follows a civil law system and relies on written laws and codes issued by its parliaments and governments. These statutes are then interpreted and applied by the courts whose case law constitutes an important source of law despite Switzerland's civil law tradition.

In addition, Switzerland is a federation, meaning the Swiss legal structure is divided into three levels: federal, cantonal and communal. Federal laws apply in Switzerland in its entirety while statutes enacted by the 26 different Swiss cantons only apply within their jurisdiction. Likewise, communal statutes are only applicable within a set municipality.

Over the course of its history, Switzerland centralised large parts of its laws at the federal level in an effort to harmonise its legislation, including most of its commercial laws, and avoid local discrepancies. Nowadays, the federal jurisdiction includes private law – which covers for instance contract law, tort law, labour law, corporate law, intellectual property law – and criminal law. In contrast, public law remains split between the federal and cantonal jurisdictions. Some public law areas are covered at the federal level (e.g. social security law, competition law) while some are at the cantonal level (e.g. construction law) and others are both (e.g. tax law).

CORPORATE STRUCTURES

Swiss law provides for the following company forms which are typical and commonly used for start-ups:

Company limited by shares

The most common form of entity found in Switzerland is the company limited by shares (Aktiengesellschaft; société anonyme; società anonima), which is a capital company usually identified under the acronym Ltd (AG; SA; SA). Its favoured position stems from the advantages it offers – including for small enterprises and start-ups – in terms of capital regulation and limited liability. Only the corporate assets are liable for the company's debts, excluding the shareholders' assets.

The company limited by shares requires at least one shareholder – who may either be an individual or a legal entity – and one director. All companies limited by shares must be represented by one person residing in Switzerland, be it a director or an individual granted with signatory powers. Regarding its capital, the company limited by shares must have a minimum share capital of CHF 100,000. However, merely 20% of the share capital (or a minimum flat amount of CHF 50,000) needs to be paid up at the time of incorporation. Companies limited by shares may constitute their share capital not only in CHF but also in a foreign currency. At the time this article was written (February 2026), the only authorised foreign currencies are GBP, EUR, USD and JPY. In addition, to be incorporated the companies limited by shares must be registered in the commercial register of the canton where it is domiciled.

The governance of companies limited by shares takes shape through their articles of associations and additional by-laws. Shareholders may also conclude further agreements (e.g. shareholders agreements) to regulate other matters (e.g. election of directors, granting of extended rights of participation or information or share ownership and shares transfers).

CORPORATE STRUCTURES, CONT'D

Limited liability company

The Swiss limited liability company (Gesellschaft mit beschränkter Haftung; société à responsabilité limitée; società a garanzia limitata) – also referred to under the acronym LLC (GmbH; Sàrl; Sagl) – is an alternative capital corporation to the company limited by shares and a combination of the latter and a partnership. It is suited for small and medium enterprises (SMEs) and family businesses. The principal distinction between the company limited by shares and the limited liability company relates to the different obligations imposed on their associates. While companies limited by shares' shareholders have the sole legal obligation to pay up their shares, the more personal nature of limited liability companies subjects their quotaholders to further duties, including additional services and payments and non-competition clauses. Quotaholders, however, still benefit from limited liability as only the corporate assets are liable for the company's debts.

Otherwise, the requirements to establish a limited liability company are quite similar to the ones applicable to the company limited by shares, except notably that the limited liability company requires a lower capital of CHF 20,000.

The governance of limited liability companies follows their articles of associations, additional by-laws and other agreements passed between their quotaholders. The limited liability company's quotaholders are in principle responsible for the management of the company, unless it has been delegated.

Among their disadvantages, limited liability companies have less flexibility in managing their capital than companies limited by shares. In addition, limited liability companies constitute more transparent entities as their ownership must be disclosed to the commercial register along with the names, domiciles and number of quotas owned by each quotaholder; all this information being freely available to the public. In contrast, the ownership of a company limited by shares remains anonymous.

As for the choice between incorporation as a company limited by shares or a limited liability company, most Swiss start-ups tend to be incorporated as companies limited by shares as the corporate structure allows for more flexibility.

Other structures

While the above corporate structures are the most commonly used for start-ups in Switzerland, there are other types open to entrepreneurs under Swiss law. These include:

- sole proprietorship;
- general partnership;
- and limited partnership.

Sole proprietorships are suitable for companies whose business activities are closely linked to a single owner, namely an individual acting alone in their business.

General and limited partnerships are ideal for small businesses whose partners' personal interests are close to their business interests.

These corporate forms are ideal for small starting businesses as they do not require any start-up capital and are easier to establish than limited or limited liability companies. However, partnerships may be impeded in their entrepreneurial flexibility due to more comprehensive scrutiny rights recognised by all partners.

Furthermore, they present additional risk to their proprietors and partners as each and every one of them is liable for the company's debts. It is to be noted, however, that in contrast to general partnerships, limited partnerships allow splitting the liability for corporate debts between two kinds of partners, i.e. general partners (usually the company's managers) and limited partners (usually the company's investors or creditors). General partners are liable on an unlimited basis for their assets, while limited partners are liable on a limited basis only. Due to these accrued risks, sole proprietorship and (general or limited) partnerships are only suitable to low-risk businesses with limited available start-up financing. As such, these corporate structures are overall unsuitable for start-ups. Rather, start-ups in Switzerland rarely opt for sole proprietorship and (general or limited) partnerships for their incorporation; capital companies (i.e. companies limited Text

SWITZERLAND

ENTERING THE COUNTRY

At the time this article was written (February 2026), Switzerland does not yet have an encompassing foreign investment control regime.

The Federal Assembly and the Federal Council are however working to enact new regulations on the matter. As part of this process, in December 2025, the Federal Assembly adopted the new Federal Investment Screening Act (ISA), introducing a system of control of foreign direct investments (FDI) focused on sectors critical to security and state investors. This law is subject to an optional referendum until 17 April 2026 and is expected to come into force in 2027 at the earliest, once the Federal Council has issued the implementing provisions by way of an ordinance.

In essence, the newly adopted ISA aims to safeguard Switzerland's public order and security, while preserving the country's general openness to foreign investments. The Swiss approach is intentionally narrow compared to FDI regimes of most other OECD jurisdictions: only acquisitions of control by foreign state-controlled investors in security-critical sectors are subject to clearance. Private foreign investors remain outside the scope of the ISA.

The ISA provides that acquisitions of Swiss businesses active in specified critical sectors of the Swiss economy by foreign state-controlled investors are subject to notification and to clearance by the Federal State Secretariat for Economic Affairs (SECO) prior to implementation. The notion of "foreign state-controlled investor" is clearly defined: it includes only foreign state administrations and agencies, companies headquartered outside Switzerland under direct or indirect control of a foreign state, asset-holding entities under such control, and individuals or entities acting on behalf of a foreign state.

Only acquisitions of companies operating in defined critical sectors are covered by the ISA: these are highly sensitive sectors (such as manufacturers of armaments or dual-use goods critical for the armed forces and other security institutions, operators of certain energy and water supply infrastructures, and providers of central security-related IT services) and other critical sectors (such as hospitals, pharmaceutical companies, transport and railway infrastructure operators, operators of major food distribution centres, telecommunications network operators, financial market infrastructure operators, and systemically important banks). Additionally, the law sets quantitative thresholds (e.g., at least 50 full-time positions worldwide or global turnover of at least CHF 10 or 100 million in the two previous financial years) that the target company must exceed for the acquisition to fall under the ISA. This ensures that investments in small Swiss companies or start-ups are not impacted.

The new ISA will not replace pre-existing sector-specific change of control regimes or FDI regulations. These sector-specific regulations may apply before the ISA comes into force and will continue to apply alongside it, depending on the business involved (e.g., the Federal Banking Act, the Federal Act on Financial Institutions and the Federal Telecommunications Act). Additionally, the Federal Law on the Acquisitions of Real Estate by Persons Abroad (commonly referred to as "Lex Koller") requires prior authorisation for real estate acquisitions in Switzerland by foreign persons. However, this does not apply to nationals of members states of the European Union, Iceland, Liechtenstein, Norway or the United Kingdom domiciled in Switzerland. Furthermore, no prior authorisation is needed for acquiring commercial premises serving a company's business activities.

SWITZERLAND

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademark

What is protectable? Any sign (i.e. such as words, letters, numerals, figurative representations, two or three-dimensional shapes, or combinations of such elements with each other or with colours) capable of distinguishing the goods or services of one undertaking from those of other undertakings.

Where to apply? If trademark protection is sought in Switzerland, trademarks must be registered with the Swiss Federal Institute of Intellectual Property ("IPI"). The application procedure before the IPI is similar to the procedure before the European Union Intellectual Property Office ("EUIPO"). International protection for trademarks registered in Switzerland can be requested from the IPI according to the Madrid System. The application can be filed via an online platform on https://e-trademark.ige.ch/etrademark/index.jsf (available in German, French and Italian). The IPI reviews the application and registers the trademark immediately, provided that the requirements are met. The IPI publishes the new registration, which triggers a three-month opposition period for any third parties. The trademark is registered once opposition(s), if any, is/are dismissed.

Duration of protection? Once validly registered, the trademark is protected for a ten-year period. Upon request, the protection period can be extended for another ten-year period.

Costs? Application costs for Swiss trademarks amount to CHF 450, with a discount of CHF 100 for trademark applications filed via the online platform. Costs of an extension of the protection period amount to CHF 550. Fees for legal advice, if any, are to be charged additionally.

Patents

What is protectable? In Switzerland, any invention is patentable provided that it is new and not obvious having regard to the state of the art and applicable to industry.

Where to apply? Patent protection is granted per country (i.e. the applicant must file a patent request in each country where patent protection is sought). To obtain a patent in Switzerland, an application can be filed with the IPI. The IPI reviews the application and then publishes the patent request in the Swiss protection titles register (called Swissreg). The patent is granted if opposition(s), if any, is/are ruled out. It should be noted that in Switzerland the patent is granted without any guarantee from the IPI (i.e. the IPI does not examine whether conditions are met before granting the patent). As a consequence, patents can be challenged by any third party in an opposition period of nine months following the publication by the IPI. In addition, the patent holder is responsible for detecting any infringement against the patent and enforcing its patent if needed as neither the IPI nor any other Swiss authority monitors patent infringements.

Duration of protection? In any case, the maximal length of the protection period is 20 years from the application date. Protection is maintained upon payment of annual fees to the IPI.

Costs? Application costs amount to CHF 200 and examination costs amount to CHF 500. Fees for legal advice, if any, are to be charged additionally. Annual fees are due as of the fourth year of protection. They amount to CHF 100 for the fourth year and increase each year gradually up to CHF 960 for the 20th year.

Designs

What is protectable? Under Swiss law, any unique new creative product or parts of products that is characterized by the arrangement of lines, surfaces, contours, or colours or by the materials used, either in two-dimensional or three-dimensional plans, can be protected.

Where to apply? To obtain protection of a design in Switzerland, an application can be filed with the IPI. The IPI immediately registers the design and publishes it in the Swiss protection titles register (called Swissreg). It should be noted that the design is registered without any guarantee from the IPI (i.e. the IPI does not examine whether conditions are met before the registration of the design). Consequently, the registration of the design can be challenged by any third party. In addition, the creator of the design is responsible for monitoring any infringement of the protection and enforcing the protection if needed as neither the IPI nor any other Swiss authority monitors design infringements.

Duration of protection? The minimal duration of protection is five years. The protection can be extended up to five times, each time for five years (i.e. maximal duration of protection is 25 years).

Costs? Application costs amount to CHF 200. Each extension costs an additional CHF 200. Fees for legal advice, if any, are to be charged additionally.

INTELLECTUAL PROPERTY, CONT'D

Topographies of Semiconductor Products

What is protectable? Under Swiss law, any three-dimensional structures of semiconductor products, regardless of how they are attached or coded and provided that they are not obvious having regard to the state of the art, can be protected.

Where to apply? To obtain protection of a topography in Switzerland, an application can be filed with the IPI. The IPI registers the topography once the application is completed. It should be noted that the owner of the topography is responsible for monitoring any infringement of the protection and enforcing the protection if needed as neither the IPI nor any other Swiss authority monitors topography infringements.

Duration of protection? The duration of protection is ten years.

Costs? Application costs amount to CHF 450. Fees for legal advice, if any, are to be charged additionally.

The following IP rights cannot be registered:

Copyright

What is protectable? Literary and artistic intellectual creations from natural persons with individual character (including software) are considered as works protected by copyright, irrespective of their value or purpose.

How to protect? Copyright exists from the creation of the work.

How to exploit protected work? Copyright owners have the exclusive right to their own works and the right to recognition of their authorships.

Duration of protection? The duration of protection depends on the nature of the work: in the case of software, copyright expires 50 years after the death of its author; in the case of photographic depictions and depictions of three-dimensional objects produced by a process similar to that of photography, copyright expires 50 years after production; in the case of all other works, copyright expires 70 years after the death of the author.

Costs? Copyright is free.

Trade secrets

Is there any IP protection? Under Swiss law, trade secrets do not qualify as an intellectual property asset.

Is there any other protection? The Swiss Unfair Competition Act prohibits anyone who exploits or discloses manufacturing or business secrets of which he/she has improperly learned. To enforce this, it is recommended for companies to implement appropriate measures to keep trade secrets safe (i.e. internal regulations determining which information is considered a trade secret, who has access to this information and measures in place to secure such information). In addition, according to Swiss employment law, for the duration of the employment relationship the employee must not exploit or reveal confidential information obtained while in the employer's service, such as manufacturing or trade secrets. The employee remains bound by such duty of confidentiality even after the end of the employment agreement to the extent required to safeguard the employer's legitimate interests. Furthermore, it is to be noted that the Swiss Criminal Code prohibits the breach of trade secrets on complaint to a custodial sentence not exceeding three years or to a monetary penalty.

Duration of protection? Trade secret protection applies as long as the measures in place apply.

DATA PROTECTION/PRIVACY

Swiss data protection laws include the Federal Act on Data Protection (FADP) and 26 canton-level regulations, one for each canton. Despite this high number of texts, only the FADP contains provisions relevant to processing of personal data by private entities, including companies. It is to be noted that the FADP has recently been revised to bring the Swiss data protection legal framework more closely in line with the GDPR of the European Union. The revised FADP (hereinafter "FADP") (as well as the Federal Data Protection Ordinance [hereinafter "DPO"] and the Federal Ordinance on Data Protection Certification [hereinafter "DPCO"]) entered into force on 1 September 2023.

In a nutshell, the FADP reutilises the GDPR's concepts of "data controller" and "data processor". While the data controller is the entity which determines the purposes and means of processing personal data, the data processor processes personal data on behalf of the former. Both data controllers and data processors must respect certain overarching principles through their processing of personal data. According to these principles, all personal data processing must be conducted in good faith, be proportional, be exact and accurate, be recognisable by the data subjects and be processed to achieve the sole purposes that were communicated to the data subjects at the time the personal data was collected. If a particular processing of personal data fails to meet those requirements, said personal data may still be lawfully processed where there is a lawful basis for processing, including the consent of the data subjects, an overriding private interest, an overriding Swiss public interest or Swiss law.

In addition, data subjects benefit from different rights to enforce their privacy, e.g. right of access or right to be informed at the time the personal data was collected. Data controllers and data processors have corresponding duties to observe in their handling of personal data. For instance, they are required to inform data subjects in an appropriate manner when collecting personal data unless any exception applies, to safeguard personal data and, unless an exception applies, maintain an inventory of their processing activities (record of processing activities [ROPA]). They also have the possibility, but no obligation, to appoint an internal data privacy advisor.

Regarding international transfers of personal data, Switzerland follows a similar approach as the European Union: personal data may be transferred abroad to states that have been recognised as having legislation providing an adequate level of protection by a decision of the Swiss Federal Council (see Article 16(1) DPA). The list of such states can be found in Annex 1 to the DPO and is similar to the adequacy list kept by the European Commission, but there are differences (for example, Japan is currently not considered providing for adequate protection by the Swiss Federal Council). It is noteworthy to mention that on 14 August 2024 the Swiss Federal Council decided to add the United States to the list of states with an adequate level of data protection, provided that the recipient is certified under the CH-U.S. Data Privacy Framework (CH-U.S DPF). The amendment came into force on 15 September 2024. Some uncertainty remains as to the long-term reliability of the CH-U.S. DPF, in light of President Trump's recent weakening of the Privacy and Civil Liberties Oversight Board, an organisation that exercises oversight within the CH-U.S. DPF.

In the absence of an adequacy decision by the Swiss Federal Council and unless one of the exceptions set forth in Article 17 DPA applies, transfers are only lawful if an appropriate level of data protection is guaranteed by one of the means specified in Article 16(2) DPA. In particular, an appropriate level of data protection is guaranteed where transfers are accompanied by concluding EU Standard Contractual Clauses adapted to Swiss law requirements – which are additional agreements between data importers and exporters – and by conducting a transfer impact assessment resulting in a positive outcome. It is to be noted that Switzerland has been recognised by the European Commission as providing adequate protection pursuant to the GDPR; meaning that personal data may flow from EU member states and EEA contracting states to Switzerland.

While the GDPR certainly inspired the revised FADP's content, the latter is not a carbon copy of the former and slight differences subsist, e.g. the revised FADP does not impose mandatory terms in data processing agreements (DPAs) contrary to the GDPR, etc.

SWITZERLAND

ARTIFICIAL INTELLIGENCE

Switzerland does not currently have a dedicated regulatory framework for AI and is approaching the challenges posed by AI using existing regulations on data protection, intellectual property and business and professional secrecy. The revised Federal Data Protection Act therefore remains the key regulation for AI. It plays an important role in setting standards for personal data in AI, emphasising principles such as legality and data minimisation.

It must further be noted that the EU AI Act, with extraterritorial effects akin to the GDPR, will significantly impact Swiss companies engaged in AI activities. In fact, the EU AI Act will apply to all parties involved in AI, including those in Switzerland if their systems are intended for the EU.

Finally, on 12 February 2025, the Swiss Federal Council announced that the AI Convention of the Council of Europe will be incorporated into Swiss law. Any necessary modifications will be as sector specific as possible, with general regulation limited to core areas like data protection. In addition to the legislation, non-legally binding measures will be developed to implement the AI Convention. Accordingly, the Swiss Federal Council has instructed the Federal Department of Justice and Police, in cooperation with other departments, to prepare for the end of 2026 a consultation draft for implementing the AI Convention, outlining the necessary legal measures related to transparency, data protection, non-discrimination, and oversight. The Federal Department of the Environment, Transport, Energy and Communications, along with other departments, will also have to prepare a plan for non-legislative measures, ensuring alignment with the approaches of key trading partners.

EMPLOYEES/CONTRACTORS

General considerations: A company may enter into an employment agreement with an individual. The employment agreement does not have to be in written form. Notwithstanding the form of the agreement, the employee shall be registered with Swiss social security. Some mandatory provisions may apply to employment agreements. They aim to provide employees with minimal working conditions. In addition, depending on the field of activity, collective labour agreements may also apply.

A company may also offer to any third party a contractor agreement. Mandatory employment law provisions do not apply to contractors, and they do not have to be registered with social security by the company. It is to be noted that a contractor agreement may be requalified as an employment agreement depending on the circumstances of the case. This requalification triggers the obligation for the company to (i) register the third party with Swiss social security and (ii) comply with Swiss employment law provisions. To mitigate this risk, the company shall, in particular, verify that the contractor remains in any case fully independent and autonomous from the company (i.e. no subordination relationship).

EMPLOYEES/CONTRACTORS, CONT'D

Work for hire regime in Switzerland: Under Swiss employment law, by default only the IP rights to inventions and software developed during employment in fulfilment of contractual obligations belong to the employer by law. Swiss employment law does not regulate the IP rights to inventions and software created prior to or during employment outside of contractual obligations or during leisure time nor ownership in any other IP rights. As a consequence, employers shall require employees to assign all of the others IP rights to them by way of a written employment agreement.

Registration with social security: Every employer must register its employees with social security and pay their shares of contributions. The amount of the contributions depends, among other things, on the employee's remuneration.

Termination: As a general consideration, Switzerland has a very liberal approach to terminations. Under Swiss law, two types of terminations can be listed: (i) ordinary termination (i.e. with respect to the applicable notice period) and (ii) immediate termination.

As for ordinary termination, it is to be noted that any party is free to terminate the employment agreement upon completion of the applicable notice period. There is no need to provide any reasons. However, any employee can challenge termination of their employment if such termination is abusive/wrongful. A termination is deemed abusive/wrongful if it is based, in particular, (i) on account of an attribute pertaining to the person of the employee, (ii) because the employee exercises a constitutional right, (iii) because it is given solely in order to prevent claims under the employment agreement from accruing to the employee, (iv) because the employee asserts claims under the employment agreement in good faith or (v) because the employee is performing Swiss compulsory military or civil defence service or any non-voluntary legal obligation.

As for immediate termination of employment, it is admissible if based on a good cause (i.e. any circumstance which renders the continuation of employment in good faith unconscionable for the party giving notice). It shall be noted that Swiss law is rather restrictive in this respect, resulting in the fact that employees are generally well protected against immediate termination. Maximal exposure in case of wrongful immediate termination is an indemnity equivalent to 12-month's salary (six months maximum as indemnity and six months maximum as penalty). In such case, it shall be outlined that the termination, however wrongful, remains valid. As conditions for an immediate termination to be admissible are rather restrictive, an ordinary termination with immediate garden leave can serve as a valid alternative.

CONSUMER PROTECTION

Consumer protection law in Switzerland is relatively weak compared to the legislation in the European Union. As a non-EU member state and non-EEA contracting state, Switzerland is not bound by European requirements. There is often an "autonomous adaption" of EU law. In the field of consumer law, this happened mainly in the 1990s, but after that the existing consumer protection rules were no longer adapted to developments in the EU. Switzerland's approach to consumer protection is therefore rather fragmented. There is no overarching consumer protection framework, but some laws aim to protect consumers, either expressly or by implication. Generally, consumers are protected against misinformation, unfair contractual terms and product safety risks, for example when purchasing certain products (such as food, clothes, household appliances, furnishing, electricity, drugs, etc.) or certain services (such as financial services, telecommunication services, electricity, education, housing, transport, etc.). The relevant laws usually require that products and services be described in a transparent and accurate manner and that products be safe.

It can be stated that Switzerland has a significantly lower level of consumer protection compared to other countries, especially the European Union. In other words, Swiss consumer law is very liberal in comparison, even if Switzerland has partly autonomously implemented EU law. Consequently, the restrictions are very limited and do not go as far as in the European Union.

Information obligations: Some laws require that information about products and services shall not be misleading and allow consumers to understand and compare offers. For example, the Federal Act against Unfair Competition (UCA) generally (including B2B settings) prohibits false or misleading information, which may include failure to provide information that is required for consumers to make an informed decision. Moreover, detailed regulations on price indications exist in order to ensure that prices for products and services are clear, not misleading and comparable.

Unfair contract terms: Under the UCA, general terms and conditions in consumer contracts are null and void if they are unfair. However, there is little guidance in the law as to what makes a term "unfair" and, unlike the European Union, Switzerland does not recognise any official list of clauses presumed to be unfair. Consequently, it is unlikely that, for example, a clause that allows a provider to update consumer contracts by providing for notice and a right to object would be considered unfair.

Restricted withdrawal rights: Swiss law does not grant a right to consumers to withdraw from distance and off-premises contracts. In practice, in some cases, rights of this kind are however granted voluntarily to consumers by providers and vendors (even if there is no legal obligation to do so).

Consumer credit: An important part of consumer protection legislation is the Consumer Credit Act, which aims to protect consumers against over-indebtedness. It regulates commercial consumer credit loans to private individuals. Under the Consumer Credit Act, for example, consumer credit contracts must be concluded in writing and contain minimum information, and borrowers have a mandatory right to withdraw from the contract and accelerate repayment. Moreover, lenders must conduct a credit assessment and cap interest to a maximum rate.

Geo-blocking ban: Under the UCA, discriminatory practices such as geo-blocking and price discrimination against Swiss consumers in e-commerce are prohibited. Unlike its European equivalent, the Swiss ban does not extend to the offline sector and allows for exceptions if there is an objective justification, such as customs duties, VAT differences or higher shipping and handling costs. Additionally, certain sectors — such as financial services, public transport, gambling, and audiovisual services — are expressly exempt from the ban, mirroring the approach taken in the EU.

CONSUMER PROTECTION, CONT'D

Product regulation: In addition to requirements in some laws, there are two main laws for products in Switzerland:

- Product Safety Act: Commercial manufacturers must ensure that products placed on the market do not pose relevant risks to the safety and health of users and third parties and that they comply with the applicable specific requirements or the state of the art.
- Product Liability Act: Manufacturers are liable for damages where a faulty product causes death or injury to a person or damage to property used for private purposes.

TERMS OF SERVICE

Online terms of service must typically not include any specific terms. However, to be enforceable in Switzerland, online terms of service must be agreed by both parties. Hence, they must be at the disposal of (potential) consumers prior to placing an order, and the (potential) consumers must confirm that they have agreed to them within the buying process. In practice, this is usually achieved through a tick-box that the customer is required to click during the ordering process.

In Switzerland, online terms of service usually address the following topics: entry into force, delivery, default, warranties, liability, contractual term, termination rights, applicable law, and place of jurisdiction. Please note that the applicable law and the place of jurisdiction provided for by Swiss law may in general not be amended in contracts with consumers.

In this regard and as a general consideration (B2B and B2C), the Swiss Federal Act against Unfair Competition (UCA) stipulates that any conduct or business practice that is misleading or otherwise violates the principle of good faith in a way that it influences the relationship between competitors or between suppliers and customers is unfair and unlawful.

In addition, the UCA stipulates with regards to (online) terms of services that a person acts unfairly if he/she uses general terms and conditions, that provide for a considerable and unjustified imbalance between contractual rights and contractual obligations to the prejudice of consumers in a manner that is in breach of good faith. It is to be noted that, unlike the European Union, Switzerland does not recognise any official list of clauses presumed to be unfair.

Moreover, when offering goods, works or services online, a person acts unfairly if he/she fails to provide clear and complete details of his/her identity and contact address (including email address), indicate the individual technical steps that lead to a contract being concluded, provide suitable technical means for identifying and correcting input errors before submitting the order or provide immediate online confirmation of the customer's order.

SWITZERLAND

TAX/FUNDING

Taxation overview: Swiss start-ups are usually organised in the legal form of corporations. Therefore, the following considerations are limited to investments into start-ups organised as Swiss corporations.

Swiss corporate tax system: Switzerland is a federation. It follows that both the federal state and the cantons/municipalities levy their own corporate taxes. At the federal level, companies domiciled in Switzerland are subject to a federal corporate income tax on their net profits, which is set at a flat rate of 8.5%. In addition, each of the different cantons/municipalities levy corporate income and capital taxes according to their respective laws and their own tax rates. The effective corporate income tax rate (which includes the cantonal/communal as well as the federal taxes) varies between 11.22 and 22.30%[1]. Capital tax is very low, between 0.001 and 0.506%[2]. Tax losses carried forward can be offset against taxable profits for a maximum of seven years. Such time limit does however not apply for financial restructuring measures.

Issuance stamp tax: Issuance stamp tax is levied on all direct contributions from shareholders (such contributions are however usually not accounted for as profits subject to corporate income tax) at a rate of 1%. Such issuance stamp tax is notably levied on the share issuance of Swiss companies, with a tax exemption on the first CHF 1 million issued in shares. Stamp tax may also be levied in cases of financial restructurings, although some exemptions exist.

Withholding tax: Dividends (including constructive dividends) paid by a Swiss corporation to its shareholders are subject to withholding tax ("WHT") at a rate of 35%. WHT must be withheld and paid by the Swiss company to the Swiss tax administration. Swiss WHT is usually entirely refundable for Swiss residents (individuals and corporations). For individuals, WHT is credited against their cantonal and communal income taxes, subject to some formalities and declaration requirements. For corporations, the refund of WHT usually requires a specific form to be filed with the federal tax administration. Under some conditions, the tax obligation in relation with WHT for corporate shareholders can be fulfilled by way of declaration (instead of payment and reimbursement). For non-Swiss residents, a (full or partial) refund is possible (under some conditions) in application of a double tax treaty.

Debt financing: In Switzerland, no WHT is levied on interests paid on loans, subject however to requalification 1) under the excess interest or thin capitalization rules or 2) of the loan into a bond, should the loan(s) exceed a certain threshold (CHF 500,000) and in case there are more than ten non-bank lenders. Conversion of shareholder loans into equity may also trigger unforeseen tax consequences. Debt instruments, although very useful in practice, should then be used with caution and the guidance of local counsel.

Capital gain: Private capital gains on movable assets (e.g. shares) are generally tax-exempt in Switzerland. When selling shares in start-ups, a private individual investor residing in Switzerland could then be eligible for a full tax exemption on capital gains (subject to requalification, in particular, into employment income, commercial income of a professional security dealer or dividend/liquidation income under indirect partial liquidation rules, etc.). Corporations remain taxable on capital gains but may benefit from the participation reduction if they hold more than 10%.

Employee participation schemes: Employee participation schemes are often used by start-ups to attract talents, as they cannot offer salaries as high as those of "regular" companies. From a Swiss tax (and also social security) perspective, employee participation schemes raise complex questions. As a general rule, benefits in kind/cash deriving from participation scheme are qualified as income and subject to tax. The Swiss tax practice distinguishes between shares and options plans and deals with their different characteristics/specific criteria that influence the portion to be considered as income and the timing of taxation. A possible blocking period allows for a reduction in the amount to be considered as income. In a nutshell, even if shares are held in private wealth, it cannot be automatically assumed that the employee will realise a tax-exempt capital gain, as is the case for third-party shareholders as described above. Consequently, implementation of each employee participation scheme must be accompanied by a professional and ultimately validated with the authorities.

[1] According to summarised data for 2024.
[2] According to summarised data for 2024.

TAX/FUNDING, CONT'D

Value added tax: Swiss value added tax ("VAT") is levied on proceeds of sales and services rendered in Switzerland. VAT is charged by entrepreneurs/businesses, which are responsible for declaring their output/input VAT positions and paying their final share of VAT to the federal tax administration. Businesses with an annual turnover of less than CHF 100,000 are not obligated to register as VAT taxpayers. For 2026, the ordinary VAT rate is 8.1%. Reduced tax rates apply on specific products/services and there are some VAT exemptions for some specific fields and services. As a rule, VAT returns are normally submitted quarterly (other periods are possible under the law or by agreement with the federal tax administration).

Tax holidays: Many cantons offer tax incentives for newly established enterprises that carry out a long-lasting activity in the canton and serve its economic interests, such as tax holidays or significant tax relief for cantonal and communal tax purposes for up to ten years.

Patent box and R&D deduction incentives relevant for start-ups: Two main instruments were recently (2020) introduced to encourage research and innovation in Switzerland:

- **Patent box:** This tax instrument allows a separate treatment ("in the box") of the profits generated directly by selected patents and comparable rights (defined restrictively). The taxation system provides a reduction that varies depending on the canton and may reach up to 90% of the net profit derived from patents and comparable rights. In practice, this means that only 10% of this "boxed" profit will be added to the overall profit.
- **R&D deduction:** This tax instrument aims at encouraging "upstream" R&D based on input. The new harmonised system provides for an additional "super-deduction" of a maximum of 50% over and above R&D expenditures justified for commercial purposes. In other words, this system allows a deduction that goes beyond the expenses actually incurred. Each canton is however free to decide whether or not to adopt the "super-deduction" and to restrict the maximum allowable rate.

Please note that these two instruments are subject to various conditions and limitations that need to be discussed in detail with local counsel. This is all the more necessary given the diversity of practices and rates in the various cantons.

Funding/Subsidies:

Supporting the start-up ecosystem is an important concern for Switzerland. Accordingly, the Swiss federal state and cantons have established a broad spectrum of initiatives aimed at assisting start-ups in securing capital and foster a suitable environment for innovation and development of start-ups within Switzerland.

The general approach is to create favourable conditions for financing while providing targeted subsidies. At the level of the federal government, the focus primarily is on ensuring a competitive capital market and offering supplementary support, while cantonal authorities actively implement financing programs for start-ups.

The Swiss government provides multiple funding and guarantee instruments to facilitate access to capital for start-ups: notably, there are Loans for SMI in which the state acts as the guarantor for bank loans. The federal government also promotes innovation in green technologies, using the Technology Fund to issue loan guarantees to start-ups developing innovations that reduce greenhouse gas emissions, particularly supporting green tech start-ups. Furthermore, Innosuisse - Swiss Agency for the Promotion of Innovation was established to, among other things, support research collaborations between universities and companies by covering researchers' salaries. Additionally, the SECO Start-up Fund (SSF) assists Swiss investors in financing start-ups in developing or transitioning countries deemed a priority by the SECO by covering up to two-thirds of investment costs. Finally, the federal government also offers Tax Relief on direct federal tax for industrial companies that create jobs in structurally weak regions as part of its regional policy (such full federal exemption being very limited in practice nowadays).

TAX/FUNDING, CONT'D

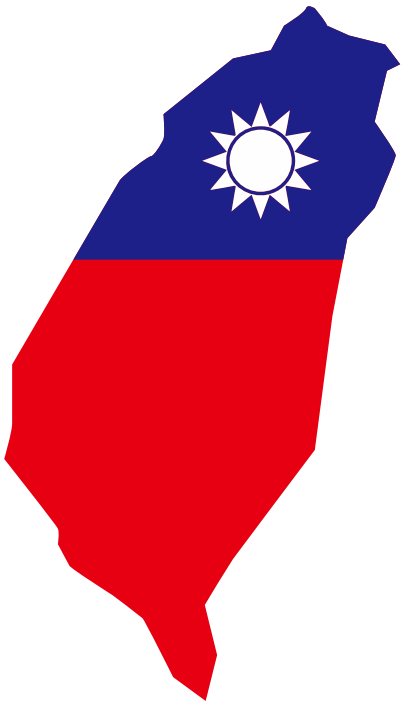
Funding/Subsidies, CONT'D:

The cantonal support for start-ups is reflected, among many others, in the following initiatives: in the Canton of Geneva with the innovation platform Fongit; in the Canton of Zurich with its Division of Business and Economic Development; in the Canton of Ticino with the Park Ticino as part of the Switzerland Innovation initiative; in the Canton of Basel-Stadt with its IFJ Startup Support; in the Canton of Vaud with Innovaud; in the Canton of Bern with the Economic Development Agency; or in the Canton of Zug with the Technology Forum Zug. These are just a few examples of the numerous initiatives through which the cantons provide support to start-ups by offering expertise, resources, and financing. For detailed cantonal funding options, businesses can also refer to the cantonal economic development agencies.

WHAT ELSE?

In addition to our comments on the above-mentioned topics, start-ups wishing to enter the Swiss market should be aware of the following:

Fast and efficient incorporation process: We have described above the different corporate bodies a start-up may choose to launch its business activities in Switzerland. In addition, it should be highlighted that the process of incorporating a company in Switzerland is straightforward and rapid, as it only takes a couple of weeks from the drafting of the founding documentation to the company's actual incorporation.



TAIWAN

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LEGAL FOUNDATIONS

General: The legal system in Taiwan is a civil law system. Statutory laws are fundamental, while court judgement may serve as persuasive authority depending on the level of the court. The laws can be basically classified into three categories: civil law, administrative law, and criminal law.

Civil law covers the legal relationships between individuals, for example, contracts, torts, warranty, liability, property, inheritance, among others. Contracts can be entered into freely. Where there are no written or orally expressed contract terms, the Civil Code regulates fundamental rights and obligations of the major contract types, such as sales, agency, employment, and hire of work, among others.

Administrative law covers the relationship between individuals and the state. The Administrative Procedure Act regulates the major principles and proceedings that administrative bodies must comply with.

Criminal Law covers criminal sanctions applied based on the principle that there is no punishment without law as well as the presumption of innocence.

Judicial System: The district courts, high courts, and the supreme courts handled civil litigation, criminal litigation, and administrative litigation in accordance with their jurisdiction and the nature of the cases. There is a specialized Intellectual Property and Commercial Court to handle intellectual property related litigation and complex commercial cases. Remedies available in a case include permanent injunctions.

The courts in Taiwan are considered to be generally neutral in deciding legal disputes between a foreigner and a local citizen.

CORPORATE STRUCTURES

There are many options for a start-up to start its business in Taiwan. The principal forms of business organizations are companies, branches, subsidiaries, or representative offices of foreign companies, partnerships, limited partnerships, and sole proprietorships. The definitions, features, and functions of these different forms of entity are very similar to those in the international practice.

Taiwan's Company Act allows capital investments in the form of cash, monetary credit, property, or technical know-how. If the company is formed as a close company, the equity capital to be contributed can be services provided (so-called "sweat equity"), however, sweat equity cannot exceed a certain percentage of total shares.

CORPORATE STRUCTURES, CONT'D

CORPORATE STRUCTURES

Typical corporate structures:

Companies
Under Taiwan's Company Act, four types of companies can be formed: unlimited company, unlimited company with limited liability shareholders, limited company, and company limited by shares. Unlimited companies and unlimited companies with limited liability shareholders are rarely used in practice; a company limited by shares and a limited company are the most common forms of business for foreign investors in Taiwan.

A company limited by shares shall have at least two shareholders. A single shareholder is allowed if the single shareholder is a legal person. Governance is regulated in the Company Act or the By-Laws, including matters such as the election of directors, management of the business, and others in connection with share ownership.

A limited company can be organized with at least one shareholder. A limited company places restrictions on capital contribution transfers. For this reason, it is easier for shareholders to control a limited company (or a close company limited by shares) than it is for those shareholders to control a general company limited by shares.

There are no minimum capital requirements and share structures can be customized in many ways depending on the plans and needs of the company.

Partnerships
Partnerships can be created in the following forms:

- **Partnerships:** all partners share a common purpose and have unlimited liability; regulated under the Civil Code.
- **Limited Partnerships:** general partner(s) have unlimited liability while the remaining partners (the limited partners) have limited liability; regulated under the Limited Partnership Act.

Sole Proprietorship
A sole proprietorship is any single nature person engaged in business. The owner of a sole proprietorship is liable for all of the business's debts and liabilities. A sole proprietorship is usually formed when the individual registers a name in connection with their business and is generally only to be used at a very early startup stage, or small business operation.

In sum, foreign investors usually decide on a preferred business vehicle in Taiwan based on their funding, business, and strategic needs.

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ENTERING THE COUNTRY

Taiwan generally imposes no restrictions on foreigners entering the Taiwan market, but a foreign investor (including investors from mainland China, Hong Kong, and Macau) needs to acquire **advance approval of the foreign investment** from the Department of Investment Review of the Ministry of Economic Affairs. If a foreign investor would like to acquire shares of a Taiwanese company or to establish an entity in Taiwan, an approval is required beforehand. Due to political and national security concerns, reviews of investment from mainland China is stricter than from other countries.

Restrictions on Foreign Shareholders

There are no general restrictions on foreign shareholders or acquisitions by foreign investors except for specific industries in which foreign investments are prohibited due to national security concerns, environmental protection, or other stipulated policy reasons. The prohibited sectors include, for example, water and gas supply and basic metal manufacturing, among others. There are also limits on foreign shareholders and control over the board of domestic companies in certain industries. Said restrictions may be updated from time to time. It is always prudent for a foreign investor to conduct compliance checks when planning its investments in Taiwan.

INTELLECTUAL PROPERTY

Patents, trademarks, copyrights, and trade secrets are all available under Taiwan laws. Patents and trademarks need to be registered while copyrights and trade secrets do not.

Trademarks

What is protectable: Any sign that can be used to distinguish a company's goods and services from the goods and services of other companies, such as words, designs, symbols, colors, three-dimensional shapes, motions, holograms, sounds, or any combination thereof, are protectable and can be registered as a trademark.

Where to apply: Taiwan is not a signatory to the Madrid Agreement. Trademarks can be filed with Taiwan Intellectual Property Office (TIPO) for trademark protection within Taiwan. An application for trademark registration can be filed through the Trademarks e-Filing system. Trademark examination takes approximately 6 to 8 months. After the trademark examination is completed and the application is approved, it will take another 1 to 2 months to obtain the registration certificate. Taiwan's Trademark Act adopts a post-registration opposition system, under which an opposition may be filed only within 3 months from the day following the date of publication of registration.

Duration of protection: The registration term is 10 years and can be repeatedly renewed for additional 10-year terms.

Priority claims: Applicants from WTO member countries can claim priority based on a trademark application filed in the previous 6 months in any WTO member country.

Nice Classification adopted: The Nice International Classification system has been adopted by Taiwan. Also, multiple-class applications can be filed in Taiwan.

Patents

Three types of patents are available in Taiwan: invention, utility model, and design patents. Taiwan is not a member of PCT.

INTELLECTUAL PROPERTY, CONT'D

Invention

What is protectable: An invention is eligible for patent protection if it is a technical creation that satisfies the requirements of novelty, inventive step and industrial utility.

Where to apply: Patent applications can be filed with TIPO. E-Filing service is available. Applicants from WTO member countries can claim priority based on the patent application having been filed in the previous 12 months in any WTO member country. A PCT application is not acceptable by TIPO, but any applicant from a WTO member who files a patent application in Taiwan may claim priority based on its PCT application.

Duration of protection: The term of an invention patent is 20 years from the filing date. Extensions are applicable for pharmaceutical, agrichemical or manufacturing processes, taking into account the time to obtain the regulatory approval.

Employee invention: Unless a contract provides otherwise, an employer owns the patent application right and patent right to its employees' inventions on works for hire, while the employee is entitled to ask for an appropriate bonus.

Utility Model

What is protectable: A utility model can only be a creation related to the shape or structure of an article or combination of articles. Manufacturing methods, processing methods, and chemical substances with concrete shape cannot be protected as a utility model.

Where to apply: TIPO, same as the invention patent applications.

Duration of protection: The term of a utility model is 10 years from the filing date.

Filing Strategy: Considering that TIPO only conducts a formal review without substantive examination of utility model applications, utility model patents generally can be obtained much sooner. An applicant may file invention and utility model patent applications for the same creation on the same date to enjoy continuous protection until both the invention and the utility model are granted – at that time the applicant needs to abandon either the invention or utility model patent because double patenting is not allowed.

Design

What is protectable: A design patent protects a creation made in respect of the shape, pattern, color, or any combination thereof, of an article as a whole or in part by visual appearance. Computer generated icons and graphic user interfaces (GUI) applied to an article can also be the subject of a design patent.

Where to apply: TIPO, same as the invention patent applications.

Duration of protection: The term of a design patent is 15 years from the filing date.

INTELLECTUAL PROPERTY, CONT'D

Copyright

What is protectable: A creation that is within a literary, scientific, artistic, or other intellectual domain can be protected under Taiwan's Copyright Act, including oral and literary works, musical works, dramatic and choreographic works, artistic works, photographic works, pictorial and graphical works, audiovisual works, sound recordings, architectural works, and computer programs.

Copyright protection is granted immediately with the creation of a work. No registration is required.

Duration of protection: Copyrights are divided into moral rights and economic rights. Protection of moral rights is perpetual. Economic rights are for the lifetime of the creator and for 50 years after his or her death. However, economic rights in pseudonymous or anonymous works, works authored by a juristic person (e.g. a company or foundation), photographic and audiovisual works, sound recordings, and performances are for 50 years from the time of public release.

Trade Secrets

What is protectable: The Trade Secret Act is the main legislation governing the protection of trade secrets, including civil remedies and criminal sanctions. Trade secrets can be any method, technology, process, formula, program, design, or other information, including technical information and commercial information that may be applied in the course of production, sales, or business operations. Trade secrets must have commercial value, must be kept confidential, and reasonable measures to maintain secrecy must be implemented.

If any trade secrets are involved in litigation, protective orders, non-public hearings, special rules of docketing and file review, and other mechanism to are available to prevent the trade secrets from being disclosed.

DATA PROTECTION/PRIVACY

In Taiwan, data protection is primarily governed by the Personal Data Protection Act (PDPA) which regulates the use, collection and processing personal information. The collection of sensitive data, which includes a person's health records, genetic information, sexual history and criminal history, is subject to stricter restrictions.

The PDPA does not expressly cite any foreign legislation. However, the drafters of the PDPA did consider the provisions of EU Directive 95/46/EC (the Data Protection Directive, which was later replaced by GDPR), the OECD (Organization for Economic Cooperation and Development) Guidelines and APEC's (Asia-Pacific Economic Cooperation) privacy framework when drafting the PDPA.

A breach of the obligations imposed by the PDPA may result in liabilities, civil and criminal, as well as administrative penalties and orders. An administrative agency with proper jurisdiction over a breach can impose a cease-and desist order on the breaching entity that compels the breaching entity to immediately cease collecting, processing and using the relevant personal information. The agency can also order the breaching entity to delete personal information possessed by the breaching entity. Unlawfully collected personal information can be confiscated or ordered to be destroyed. The agency may also publish the facts of a data breach and the name of the breaching entity and its representative. Administrative penalties may be a fine imposed on the breaching entity and its representative. A natural person responsible for the breach will also face criminal penalties including imprisonment and a fine depending on whether the person had requisite culpable intent.

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ARTIFICIAL INTELLIGENCE

The AI Basic Act governs artificial intelligence (AI) in Taiwan. The AI Basic Act has two main objectives: (1) To define the role of AI in national policies and to create a development program that involves the central government, the industry, and the academia, focusing on fostering AI research and development, supporting industrial AI, building an AI technology application platform, and creating an AI industry ecosystem. (2) To develop AI in a responsible and ethical manner, considering its impact on public interests.

The AI Basic Act establishes standards and principles for AI development, promotes public awareness and trust in AI, and sets up basic ethical guidelines for AI development. It also covers the legal definition of AI, privacy protections, data governance, risk controls, and ethical principles related to AI.

EMPLOYEES/CONTRACTORS

General: The primary law governing employment relationships in Taiwan is the Labor Standards Act (LSA), which mandatorily regulates almost all employer–employee relationships and prevails regardless of governing law clause in the employment contracts. The LSA establishes the minimum requirements for the terms and conditions of employment that must be provided by an employer.

Work Made for Hire: Under Taiwan's Copyright Law, in the absence of an agreement, a creation made by an employee in the course of their employment belongs to the employer. To avoid unnecessary disputes, best practice in Taiwan is to ensure that employment agreements have clear arrangements on the ownership and assignment of intellectual properties.

Termination: An employment agreement can be terminated based on the employer and the employee's mutual consent. Without such a consent, an employer can only unilaterally terminate employment relationship under specific circumstances listed in the LSA. In other words, employment is Taiwan is, in general, not at will. A prior notice of termination and severance pay are almost always required. The related legal requirements as well as employer's obligation to report termination to the competent authorities are detailed in the LSA. It is crucial to seek legal advice before initiating employment termination to ensure the termination complies with the LSA and to avoid disputes.

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STARTUP LEGAL PLAYBOOK

CONSUMER PROTECTION

The primary law governing consumer protection in Taiwan is the Consumer Protection Act, which regulates the protection of consumers' health and safety, standard contracts, online transactions, administrative supervision, resolution of consumer disputes, among others.

For product liability, the Consumer Protection Act imposes strict liability on business operators that engage in the designing, producing, manufacturing goods or providing services regardless of the business operators' intention or negligence. Product liability for damages can only be reduced, not exempted, by the court. Class actions are available, though rare in practice, under the Consumer Protection Act.

TERMS OF SERVICE

Online terms of service can possibly be deemed as a type of standard contract. For different types of sales or service, the relevant competent authorities respectively announce the Mandatory Provisions to be included in and Prohibitory Provisions of Standard Contract. For example, standard contracts for online retail transactions are regulated such that an online business is prohibited from using a standard contract to alter the products or terminating the contract unilaterally. Compliance review of online terms before releasing the terms is necessary.

TAX/FUNDING

Tax

Taiwan imposes several key taxes on businesses, with primary considerations being corporate income tax, value-added tax (VAT), and withholding tax on dividends/interest to a non-resident of Taiwan.

A company operating in Taiwan is subject to profit-seeking enterprise income tax (current rate 20%), which applies to all residential corporations except for very small-scale businesses. Additionally, an undistributed surplus earnings tax (current rate 5%) may be levied if profits are not distributed by the following year.

For transactions involving goods and services within Taiwan, a value-added tax (VAT) of 5% applies, except for certain exempt categories such as exports or transactions in bonded zones. Foreign investors should be aware of withholding tax implications when earning Taiwan-sourced income. Dividend and interest payments to non-residents are generally subject to a withholding tax (current rate 21%).

Tax incentives and credits are available to encourage investment in specific industries. Businesses engaged in biotechnology, pharmaceuticals, and industrial innovation may qualify for income tax credits, while certain international transactions and exports may benefit from VAT exemptions. Additionally, foreign enterprises without a fixed place of business within Taiwan may apply for tax refunds on expenses related to exhibitions or temporary commercial activities.

Taiwan enforces transfer pricing regulations to ensure fair taxation when a company engages in non-arm's-length transactions with other profit-making enterprises in Taiwan or abroad in an attempt to circumvent or reduce its tax liability. According to the Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's-Length Transfer Pricing, tax authority may investigate and make adjustments when the price or profit is not aligned with the arm's-length nature between non-related parties. Specifically, a company with total annual revenue of no less than NT$ 300 million engages in transfer pricing shall disclose the affiliated enterprise and related party transaction information and prepare a transfer pricing report when filing the annual income tax.

Overall, Taiwan provides a structured yet investor-friendly tax regime, balancing corporate obligations with incentives designed to foster economic growth.

TAX/FUNDING, CONT'D

Funding / Subsidies

Taiwan government offers a variety of funding opportunities to support startups at different stages, groups, or industries:

Financing Loans
For financing loans, the Small Medium and Startup Enterprises Administration, Ministry of Economic Affairs under the Ministry of Economic Affairs provides several programs to assist small businesses and young entrepreneurs in accelerating investment.

Financial Subsidies
Beyond loans, the government also provides financial subsidies, such as Service Industry Innovation Research (SIIR), which provides funding to encourage companies to reform and innovate in the service industry, and Small Business Innovation Research (SBIR), which provides funding for small and medium enterprises, among others.

Venture Capital
The National Development Fund offers the Business Angel Investment Program, which provides funding to startups with innovative capacities and global potential, particularly those in relatively high-risk industries. In addition to national programs, local governments also offer their own subsidy program for startups.

WHAT ELSE?

Taiwan is a vibrant playground for startups and is open to pioneers and innovators. With well-educated talent, high-quality supply chains, relatively low living expenses and liberal visa policies for foreign entrepreneurs and professionals, Taiwan is friendly to emerging technology and business models.



TUNISIA

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TUNISIA

LEGAL FOUNDATIONS

Tunisia is a civil law country. Its legal system is based mainly on codified laws, Personal Status Code, Penal Code, Commercial Companies Code, Commercial Code, etc.

The main sources of law are as follows:

- The Constitution
- Codes and laws enacted by Parliament
- Decrees and orders
- Duly ratified and published international treaties

Case law does not have the same binding force as in common law systems, although court decisions, particularly those of higher courts, may have persuasive value.

The judicial system is organized at the national level and comprises:

- Courts of first instance
- Courts of appeal
- The Court of Cassation (the highest court for civil, commercial, criminal and social matters)
- Administrative courts (with the Administrative Court at the head of the administrative judiciary)

TUNISIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

From a practical point of view, the most relevant legal structures that a start-up can consider in Tunisia are as follows:

Limited Liability Company (SARL), Single-Member Limited Liability Company (SUARL)

The SARL is the most commonly used form for small and medium-sized enterprises and start-ups.

Main characteristics:
- Separate legal personality.
- Liability of partners limited to their contributions.
- No minimum legal capital requirement (capital is freely determined by the partners).
- Flexible management structure (one or more managers).
- Limited number of partners (legal maximum of 50).

The SARL is therefore generally preferred by start-ups because of its simplicity, lower set-up costs and lighter regulatory obligations compared to a public limited company.

The SUARL is a variant of the SARL with a single partner.

Main characteristics:
- Separate legal personality
- Liability limited to the contribution
- Single partner (natural or legal person)
- No minimum legal capital requirement
- Simple management structure

With regard to determining the capital for SUARL and SARL, this must be determined in a manner consistent with the economic reality of the project.

Several factors must be taken into consideration:
- The nature of the activity (industrial or services).
- The volume of initial investments (equipment, facilities, software, inventory).
- Working capital requirements.
- Credibility with commercial and financial partners.

It is recommended that the capital be determined on the basis of a detailed business plan rather than a purely formal minimum amount.

Public limited company (SA)

The SA is generally used for larger companies or when external investment is planned.
- Main characteristics:
- Separate legal personality
- Liability limited to contributions
- Minimum number of shareholders: 7
- More complex governance structure (Board of Directors or Management Board and Supervisory Board)
- Suitable for raising significant funds or attracting institutional investors

Less common for start-ups in the initial phase due to its more cumbersome formalities, the SA may be considered when the company plans to seek venture capital financing or raise significant funds.

CORPORATE STRUCTURES, CONT'D

Specificity of start-ups:

In terms of legal form, the most suitable structure for raising funds from venture capital funds remains the Société Anonyme (SA) under Tunisian law. This form is generally preferred by investors because of its clear governance, ease of entry and exit from the capital, and compatibility with standard financing mechanisms. However, in the initial start-up phase, it is recommended that the company be set up as a limited liability company (SARL) in order to reduce set-up costs and enable a rapid launch of the business. In practice, venture capital funds frequently accept this configuration in the early stages, subject to a commitment to convert to an SA before or at the same time as their entry into the capital, for which they generally allow a reasonable period of time.

ENTERING THE COUNTRY

In Tunisia, foreign investment is generally unrestricted and encouraged, in accordance with Law No. 2016-71 of 30 August 2016 on investment. Tunisia offers a secure legal framework and incentives to encourage foreign capital inflows. It should be noted that the Companies Code applies to all companies in Tunisia, whether they are considered foreign or Tunisian.

Prior authorisation and sectoral restrictions

The majority of foreign investments do not require prior authorisation and can be made through the incorporation of a Tunisian company or the acquisition of shares in an existing company.

Certain strategic or sensitive activities (defence, critical infrastructure, banking, insurance) may require prior approval from a public authority or require Tunisian participation.

Exception for commercial activities: foreign investors wishing to carry out commercial activities directly in their own name must obtain a foreign trader card, in accordance with Tunisian regulations.

Ownership and participation

The Investment Law specifies that, in comparable situations, foreign investors shall enjoy national treatment no less favourable than that accorded to Tunisian investors with regard to rights and obligations.

Foreign investors may generally hold 100% of the share capital in free sectors, through the import of foreign currency, subject to compliance with foreign exchange regulations.

The procedures for becoming a shareholder in a Tunisian company (SARL or SA) are identical to those for Tunisian shareholders, with the exception of obtaining an investment form via the Central Bank of Tunisia platform, which automatically guarantees the transfer of investment-related income (dividends, sales proceeds or liquidation proceeds).

Registration and formalities

Prior to incorporation, it is necessary to obtain approval from the Innovation and Investment Agency and complete the incorporation formalities with the National Business Register (RNE).

Investor protection

The protection of the investor's property and intellectual property rights is guaranteed in accordance with the legislation in force.

The investor's property may only be expropriated in the public interest, in accordance with legal procedures, without discrimination based on nationality, and subject to fair and equitable compensation.

TUNISIA

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

Registering and maintaining patents, copyrights and trademarks in Tunisia is a straightforward and cost-effective process. The country has established a specialised intellectual property court, where judges and court clerks receive dedicated training in intellectual property law. This specialised jurisdiction has significantly enhanced the efficiency of proceedings and strengthened the enforcement of decisions, particularly in cases involving foreign rights holders.

In addition, Tunisia is an active participant in the international intellectual property framework. It is a member of the World Intellectual Property Organization and is party to several key international treaties and agreements, including:

- The Berne Convention for the Protection of Literary and Artistic Works
- The Paris Convention for the Protection of Industrial Property
- The Universal Copyright Convention
- The Arab Convention for the Protection of Copyright
- The Hague System for the International Registration of Industrial Designs
- The Madrid Protocol
- The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

Further details on Tunisia's participation in international intellectual property treaties can be found on the official website of the World Intellectual Property Organization.
https://www.wipo.int/wipolex/en/treaties/ShowResults?code=TN

Moreover, Tunisia has concluded an agreement with the European Union under which European patents granted by the European Patent Organisation benefit from automatic protection within Tunisian territory. In accordance with the Agreement on the Validation of European Patents in Tunisia, which had been signed since July 3, 2014, applicants now have the option to designate Tunisia as a "validation state" in their European patent applications.

The following IP rights can be registered:

Trademarks

What is protectable? Under Tunisian law, a trademark, whether for goods, services, or other purposes, is a visible sign capable of graphic representation that distinguishes the goods offered for sale or the services provided by a natural or legal person.

Where to apply? Trademarks can be filed either with (i) National Institute of Standardization and Industrial Property (INNORPI), (ii) the European Union Intellectual Property Office (EUIPO) or (iii) the World Intellectual Property Organization (WIPO) under the Madrid System, depending on the territories in which trademark protection is sought. The opposition procedure must be carried out within two months following the publication of the applications for registration in the official industrial property journal of INNORPI Muwassafat.

Duration of protection? If no oppositions are filed, the trademark registration remains valid for a ten-years-period, renewable indefinitely. Renewal fees are due every ten years.

Costs? The official fees amount to 596 TND (VAT included) for filing a trademark application and 774.500 TND (VAT included) for its renewal; additional fees for the legal representative also apply.

INTELLECTUAL PROPERTY, CONT'D

Patent

What is protectable? To be patentable, an invention must meet the following conditions: (i) Novelty, (ii) inventive step and (iii) industrial application (This condition is met when the invention can be manufactured or used in any type of industry or in agriculture).

Where to apply? Applications are submitted to the industrial property department of INNORPI.
Patent protection can be granted per country, meaning that applicant must register the patent in each country where protection is sought. Patent applications can be filed with either (i) National Institute of Standardization and Industrial Property, (ii) European Patent Office (EPO) or (iii) WIPO. The registration procedures before these offices slightly differ from each other, particularly as to costs.

Duration of protection? The term of protection for a patent is twenty (20) years from the filing date. Patent holders must, under penalty of forfeiture, regularly pay the annual fees for maintaining the validity of their patents on the anniversary dates of the filing date.

- From the 2nd to the 5th year: 60,500 TND (all taxes included)
- From the 6th to the 10th year: 155,700 TND (all taxes included)
- From the 11th to the 15th year: 316,350 TND (all taxes included)
- From the 16th to the 20th year: 596,400 TND (all taxes included)

Costs? Deposit fee and first annual payment: 167.600 TND (including tax). In addition, fees of the legal and technical representative apply.

Industrial design

What is protectable? An industrial design is defined by the ornamental or aesthetic appearance of an object. An industrial design is any motif or ornament applied to an article to produce an original decorative effect. An industrial model is any plastic form, whether or not associated with lines or colors, provided that this arrangement or form gives a distinctive appearance to an industrial or handcrafted product.

Where to apply? Industrial design may be registered with the INNORPI and can also be registered with the WIPO since Tunisia is party to the Hague System for registering international designs.

Duration of protection and costs? Depending on the desired protection period, the registration fees are as follows:

- For a 5-year protection period: 133,090 TND, including tax.
- For a 10-year protection period: 142,610 TND, including tax.
- For a 15-year protection period: 154,510 TND, including tax.

Copyright

What is protectable? Copyright protection covers original literary, artistic, and scientific creations, regardless of their value or purpose.

Automatic protection: Legal protection is acquired automatically simply by virtue of the creation of the work. No registration is mandatory, but it is recommended to prove prior creation. The filing or declaration of literary or artistic works is done with the Tunisian Copyright and Neighboring Rights Organization (OTDAV). The author's economic rights are protected for their lifetime.

Duration of protection? Copyright protection ends 50 years after the author's death.

Exploitation of copyrighted work? The owner of an original work has the exclusive right to exploit, or authorize others to exploit, their work. No one has the right to communicate, publish, or produce a work belonging to a third party in a form or under circumstances that infringe upon the author's economic and moral rights.

INTELLECTUAL PROPERTY, CONT'D

Trade Secrets

What is protected? Trade secrets are not included as such in the concept of intellectual property, particularly since they are not subject to registration.

Trade secrets are generally protected by confidentiality clauses included in the contract or by the conclusion of a Non-Disclosure Agreement (NDA).

DATA PROTECTION/PRIVACY

In Tunisia, the protection of personal data is governed by Organic Law No. 2004-63 of 27 July 2004, which constitutes the main legal framework for the protection of personal data, as well as its implementing decrees.

Law No. 2004-63 on the protection of personal data applies to all personal data processing operations, whether automated or not, carried out by natural or legal persons.

Personal data is defined as any information, of whatever nature, that allows the direct or indirect identification of a natural person.

The data controller is the entity that determines the purposes and means of the processing, while the data processor is the entity that acts on its behalf.

Main Principles and Obligations

Prior Consent

- Personal data may only be processed with the prior and explicit consent of the data subject, except in cases expressly provided for by law (e.g., vital interests, legal obligations). However, in practice, even where an exception applies, the consent of the data subject remains required.
- If the data concerns a child, the consent of the legal guardian and the family judge is required.

Purpose Limitation, Fairness and Transparency

- Data must be collected solely for specific, lawful, and explicit purposes.
- The controller must inform the data subject of the purposes of the processing, the nature of the data, the recipients, the retention period, and their rights.

Data Minimization and Necessity

- The data processed must be strictly necessary in relation to the purposes pursued.

Security and Confidentiality

- The data controller must implement appropriate technical and organizational measures to ensure data security and prevent unauthorized access, alteration, or destruction.
- The controller must also ensure that the data processor complies with these obligations.

Specific Prohibitions

- Certain categories of sensitive data (racial origin, religious beliefs, political opinions, health data) are subject to stricter rules, namely prior authorization from the National Authority for the Protection of Personal Data (INPDP).

DATA PROTECTION/PRIVACY, CONT'D

Procedures and Authorizations

Prior declaration
Any personal data processing operation must be subject to a prior declaration to the National Authority for the Protection of Personal Data (INPDP), the independent administrative authority responsible for overseeing compliance with the law.

Processing authorization
For certain categories of processing (as indicated above), a specific authorization from the INPDP is required.

Authorization for Data transfers abroad
Any transfer of personal data abroad must be subject to a prior authorization request submitted to the INPDP.

Rights of Data Subjects

- The law guarantees individuals several key rights:
- Right of access to their personal data.
- Right to rectification, updating, or erasure where data is inaccurate, incomplete, or unlawfully processed.
- Right to object to processing or to withdraw consent.

Requests must also be exercised by electronic means.

Sanctions

Criminal penalties (fines and imprisonment) are provided for any violation of personal data protection regulations, in particular in cases of processing without prior declaration to the INPDP, processing without the express consent of the data subject, obstruction of the right of access, unlawful disclosure of data, or transfer of data abroad without prior authorization from the INPDP.

ARTIFICIAL INTELLIGENCE

There is no specific national regulatory regime for AI in Tunisia, yet.

TUNISIA

EMPLOYEES/CONTRACTORS

Employment Contracts

Under Tunisian labor law, there are two main types of employment contracts:

1. **Open-ended contract:** This is the standard and general form of employment contract. Employment relationships are presumed to be indefinite unless one of the statutory exceptions allowing a fixed-term contract applies.
2. **Fixed-term contract:** A fixed-term contract may only be concluded in specific cases expressly provided by law, namely:
   a. To perform work required due to an extraordinary increase in the volume of services or business activity.
   b. To temporarily replace a permanent employee who is absent or whose employment contract is suspended.
   c. To perform seasonal work or other activities for which, by custom or by nature, it is not possible to use open-ended contracts.

Outside these statutory exceptions, the use of fixed-term contracts is not permitted and may lead to requalification as an open-ended contract.

Prohibition of Labor Subcontracting

Labor subcontracting (i.e., labor leasing) has been prohibited by law.

This refers to contracts or agreements concluded between a manpower supply company and a beneficiary company, under which workers are hired out and placed at the disposal of the beneficiary company.

Such arrangements are no longer permitted under Tunisian law.

Service Agreements

It remains permissible to enter into service agreements:

- With natural persons (e.g., sole proprietors); or
- With legal entities (service provider companies).

In the latter case, an employer may conclude a written contract with a service provider or works contractor company. The first party is referred to as the "beneficiary company" and the second as the "service provider company."

A service provision or works supply arrangement is defined as the provision of services or works requiring professional expertise or technical specialization for the benefit of the beneficiary company, provided that:

- The services or works do not relate to the principal and permanent activity of the beneficiary company; and
- The workers involved are not placed under the direction and control of the company's beneficiary.

If these conditions are not met, there is a risk of requalification as an employment relationship.

Work for Hire Regime

Tunisian law does not expressly recognize a "work for hire" regime in the common law sense.

In practice:

- For employees, economic rights over work created in the course of employment may belong to the employer if this is provided for contractually or results from the nature of the employee's duties.
- For independent contractors, the transfer of intellectual property rights must be expressly agreed in writing and must clearly specify the scope of the assignment (duration, territory, and modes of exploitation).

It is therefore strongly recommended to include clear intellectual property assignment clauses in employment and service agreements.

EMPLOYEES/CONTRACTORS, CONT'D

Work for Hire Regime, CONT'D

The Copyright Law provides that: "Where a work is produced by employees of a public or private legal entity in the course of their duties, copyright shall belong to the said employees, unless otherwise stipulated under an existing contract between the two parties. However, in the case of cinematographic and audiovisual works, the producer shall remain the owner of the copyright".

However, with regard to the creation of software, the law provides that "unless otherwise stipulated, software created by one or more employees of an organization in the course of their duties shall belong to the employing organization, to which all rights recognized to authors are vested".

Restrictions on termination of employment

Yes, Tunisian law provides significant protections against dismissal.

- Any termination of an open-ended contract must be based on a real and serious cause.
- Disciplinary dismissals must follow a specific statutory procedure.
- Economic dismissals are subject to strict procedural requirements and administrative oversight.

In the event of abusive dismissal, employees are entitled to the following:

- **Indemnity for failure to respect the notice period:** equivalent to one month's salary.
- **End-of-service benefit:** equivalent to one day of salary per month of service, capped at three months' salary.
- **Damages:** an amount varying between one and two months' salary for each year of service, capped at three years' salary.

Failure to comply with procedural requirements or terminating without cause may result in financial liability for the employer, in addition to these entitlements.

CONSUMER PROTECTION

Consumer protection in Tunisia is primarily governed by Law No. 92-117 of 7 December 1992 on Consumer Protection, which establishes rules regarding product safety, fair commercial transactions, and consumer rights. This law applies to all suppliers and advertisers, including manufacturers, distributors, importers, and any intermediary in the production or sales chain.

Fair Transactions and Advertising

- Misleading advertising, false claims, or distribution of toxic, falsified, or fraudulent products is prohibited.
- Suppliers must ensure truthful information on product nature, composition, quantity, price, and usage.
- Certificates of quality or labels cannot be falsified.

Consumer Rights and Guarantees

- Consumers have the right to product guarantees, including replacement, repair, or refund for non-compliant products.
- Guarantees are non-waivable and must comply with general contractual rules.
- Suppliers must provide clear information about product characteristics, risks, usage, and expected lifespan.

Enforcement and Inspections

- Inspections can be carried out by authorized economic inspectors, police officers, technical experts, and other designated officials.
- Inspectors can block, seize, or sample products suspected of being unsafe, falsified, or non-compliant.

Practical Considerations for Foreign Entities

- All imported products must meet Tunisian safety and regulatory standards, unless specific agreements allow compliance with foreign standards.
- Advertising and labeling must be accurate and transparent for the Tunisian market.
- Failure to comply can result in product seizure, fines, and legal action, even if the product meets foreign standards.

In short, foreign entities operating in Tunisia must ensure that products and services are safe, compliant with local regulations, properly labeled, and marketed honestly. Consumer rights are strongly protected, and authorities have broad powers to inspect, seize, and sanction non-compliant suppliers.

TUNISIA

TERMS OF SERVICE

The clauses must comply with restrictive laws regarding consumer protection and the protection of personal data. In accordance with Article 25 of Law No. 2000-83 of August 9, 2000, concerning electronic commerce and transactions, certain information must be provided and made available to the consumer for consultation at all stages of the transaction, such as:

- The right of withdrawal and its time limit,
- The method of order confirmation,
- The method of returning the product, exchanging it, or obtaining a refund,
- The terms of commercial warranties and after-sales service.

When concluding a contract online, it is prohibited to collect consumer information other than that necessary for concluding the contract, determining its content, performing it, and preparing and issuing invoices, unless the consumer's express consent is obtained.

TAX/FUNDING

Taxable Persons

Subject to certain exemptions, corporation tax is payable by:

- capital companies and similar entities established in Tunisia,
- foreign companies established in Tunisia,
- cooperatives and public institutions of a non-administrative nature operating for profit,
- legal entities that are not resident or established in Tunisia on certain income from Tunisian sources.

Determination of taxable profit

Taxable profit is determined on the basis of accounts that comply with corporate accounting legislation and after deduction of all business expenses and charges.

Corporate income tax rate

- General rate: 20%.
- Reduced rate: 10% for profits from the main activity as well as exceptional profits for:
  - companies engaged in craft, agricultural, fishing or fishing vessel armament activities,
  - profits from investments made in regional development areas,
  - profits from investments in activities and combating pollution,
  - purchasing centres for retail businesses organised as service,
  - service cooperatives formed between producers for the wholesale of their production, consumer cooperatives,
  - profits made in the context of commercial or industrial projects benefiting from the youth employment programme or the national fund for the promotion of crafts and small trades.
- Specific rate for certain companies:
  - 35% for investment companies, debt collection companies, telecommunications, insurance, oil sector at the level of production, refining, transport and wholesale distribution, car concessionaires, franchisees of a foreign brand or commercial chaine.
  - 40%, for banks and financial institutions, including non-resident institutions, with the exception of payment institutions, insurance and reinsurance companies, including mutual insurance companies, takaful insurance and reinsurance companies, and insurance and reinsurance companies, including mutual insurance companies, takaful insurance and reinsurance companies, and the members' fund provided for in the Insurance Code.
- Furthermore, the newly created companies that have obtained a certificate of filing of an investment declaration are entitled to deduct a portion of their profits or income from operations as well as any related extraordinary profits for the first four years of activity as follows:
  - 100% for the first year,
  - 75% for the second year,
  - 50% for the third year,
  - 25% for the fourth year.

The benefit of this deduction is subject to the keeping of accounts in accordance with company accounting legislation.

TAX/FUNDING, CONT'D

VAT

The following are subject to value added tax, regardless of their purpose or results: business conducted in Tunisia that is industrial, artisanal, or related to a liberal profession, as well as commercial transactions other than sales.

The scope of VAT covers:

- Imports, subject to exemptions,
- Industrial and craft production and services,
- Transactions relating to the liberal professions,
- Wholesale trade other than that of food products.

Unless otherwise specified in the Value Added Tax Code, the standard rate of value added tax is 19% for transactions involving goods and services.

Dividends

Dividends distributed by Tunisian resident companies are subject to personal income tax (IRPP) at a rate of 10%, paid in the form of:

- a withholding tax for individuals, regardless of their residence status, or
- an advance on income tax for resident individuals where the dividends distributed do not exceed TND 10,000.

Dividends distributed by companies that are not tax residents in Tunisia are taxable in Tunisia, unless they have been subject to a similar tax in the country of origin.

For non-resident individuals, capital gains realized on the sale of shares held in the capital of Tunisian resident companies are subject to tax in Tunisia as follows:

Capital gain

For non-resident individuals, capital gains realized from the sale of shares held in the capital of Tunisian resident companies are subject to taxation in Tunisia as follows:

For shares listed on the Tunisian Stock Exchange:

- If the shares were acquired before January 1, 2011, the capital gains are not subject to tax in Tunisia.
- If the shares were acquired after January 1, 2011, and sold before the end of the year following their acquisition, the capital gains are taxable. If the shares are sold after the end of the year following their acquisition, the capital gains are not taxable.

For shares not listed on the Tunisian Stock Exchange:
Capital gains realized from the sale of unlisted shares by non-resident individuals are subject to taxation in Tunisia.

For resident individuals, capital gains realized from the sale of shares held in the capital of unlisted Tunisian companies are considered as securities income and are therefore subject to income tax as follows:

- At a rate of 10% when the sale or transfer occurs after the expiration of one year from the date of subscription or acquisition.
- At a rate of 15% when the sale or transfer occurs before the expiration of one year from the date of subscription or acquisition.

For resident individuals, capital gains realized from the sale of shares held in the capital of Tunisian listed companies are subject to income tax at a rate of 10% if the sale or transfer occurs within one year from the date of subscription or acquisition.

WHAT ELSE?

The Tunisian in place a legal framework related to the startup that was established by Law No. 2018-20 of 17 April 2018 on startups, complemented by Decree No. 2018-840 of 11 October 2018 setting the conditions and procedures for granting and withdrawing the startup label.

The objective of this law is "to set up an incentive framework for the creation and development of startups based in particular on creativity, innovation and the adoption of new technologies and achieving high added value and competitiveness at national and international level."

This article enshrines the general philosophy of the text, affirming the will of the Tunisian legislator to:
- Structuring a legal environment conducive to innovation.
- Encourage the integration of new technologies into the economic fabric.
- Stimulate the creation of added value.
- Strengthen the competitiveness of Tunisia at the national and international levels.

It is thus a device that goes beyond simple tax incentives to be part of a global strategy for economic transformation.

The Startup Act is based on a labeling mechanism. Only companies holding the Startup label are entitled to benefit from the advantages provided by the law.

To obtain the label, the company must:
- Be incorporated in accordance with Tunisian law.
- Have been established for less than 8 years.
- Employ fewer than 100 employees.
- Present an innovative business model with strong growth potential.
- Comply with the financial thresholds set by regulatory provisions.
- Have a capital held for more than two-thirds by natural persons, SICARs, collective venture capital funds, seed funds, any other investment entities, or by foreign startups.

The decision to grant the label is made by the Labelling Committee, the competent body responsible for assessing the innovative dimension of the project.

The Startup benefits, among other things, during the period of validity of the Startup label:
- Exemption from corporation tax and the payment by the State of employers' and employees' contributions to the statutory social security scheme, which are charged to the resources of the National Employment Fund.
- Profits from the sale of securities relating to holdings in Startups are exempt from capital gains tax.
- Notwithstanding the provisions of Article 344 of the Commercial Companies Code, Startups, legally entitled to issue bonds convertible into shares, are authorized to conduct several bond issues convertible into shares, independently of the option times for conversion.
- The income or profits reinvested in subscribing to the initial capital or its increase are fully deductible within the limit of the income or profit subject to tax.
- Coverage of the costs of registration and filing of patents at the national and international level by the state.



TURKEY

CONTRIBUTORS

TURKEY
Gün + Partners
Begüm Okumus
Ugur Erkırlı

TURKEY

LEGAL FOUNDATIONS

The legal system in Turkiye operates under a civil law framework, which is influenced by the European legal tradition meaning that the laws are primarily codified and supported by judicial decisions as precedents. The main source of law is the constitution and pursuant to the Turkish Constitution the legislative authority is vested in the Grand National Assembly with the authority to establish and abolish laws. International agreements approved by the Grand National Assembly, codified laws, as well as supplementary legal codes such as regulations, circulars, and communiqués constitute the primary legal sources. Decisions of the High Court of Appeal, the Council of State and the Regional Courts of Appeal as precedents enrich the sources of law in Turkiye.

Turkiye has a unitary legal system, which means that, unlike some other countries (i.e. the United States), Turkiye does not have a federal framework with several tiers of government and jurisdictional layers. Rather, it has a unitary state structure, in which the central government is the core of all legislative, executive and judicial authority.

CORPORATE STRUCTURES

There are various corporate structures that companies, especially startups, can take into account. The type of business, ownership preferences, ease of incorporation, liability protection and tax implications are some of the variables that may influence the choice of the corporate structure when establishing a presence in Turkiye.

The corporate structures are regulated under the Turkish Commercial Code ("TCC"). The most preferred capital company types are Joint Stock Companies ("JSC") and Limited Liability Companies ("LLC"). While the JSC is a more intricate structure appropriate for larger companies or those aiming for an IPO, LLC is a more common structure providing its shareholders with a straightforward business structure. Both company types can be established with only one shareholder, although LLCs have a maximum shareholder limit of 50, while JSCs have to go public when they exceed 500 shareholders.

Moreover, corporate veil principle applies to both JSCs and LLCs, therefore their shareholders' liability is limited to their respective capital contributions. However, it should also be noted that board members of both JSCs and LLCs and shareholders of LLCs may be held personally accountable for public debts or taxes that are not recouped from the company.

It should also be mentioned that it is possible for companies to change their corporate structures after incorporation, i.e. LLC to JSC and vice versa.

CORPORATE STRUCTURES, CONT'D

Below are the key features, advantages and disadvantages of JSCs and LLCs under Turkish legal system:

Joint stock corporations

Key Features

- Can be established for any economic purpose and subject that are not prohibited specifically by law,
- Has a fixed capital divided into shares, and shareholders' liability is limited to the capital they have subscribed,
- Has an articles of association registered with the trade registry where its headquarter is located,
- Can be established with a sole shareholder, both real and legal persons can be shareholders,
- Shareholders may freely transfer their shares to others without approval of the general assembly in principle,
- JSCs are the only type of company that can be subject to an IPO and whose shares can be traded on the stock exchange,
- The minimum capital amount required for establishment is TRY 250,000,
  - At least ¼ of the shares subscribed in cash must be paid before registration, while the remaining amount must be paid within 24 months following the registration of the company.
- Can issue registered and bearer share certificates to represent its shares, and can also issue bonds and similar debt instruments.

ADVANTAGES

- Shareholders may freely transfer their shares to others without a need for formal procedures,
- JSCs are the only type of company that can be subject to an IPO and whose shares can be traded on the stock exchange
- Shareholders' liability is limited only to the capital amount they have subscribed

DISADVANTAGES

- Higher minimum capital requirement
- At least ¼ of the shares subscribed in cash must be paid before registration
- Subject to more formalities and legal procedures and higher corporate governance requirements

Limited Liability Company (LLC)

Key Features

- Can be established for any economic purpose and subject that are not prohibited specifically by law,
- Has a fixed capital divided into shares, and shareholders' liability is limited to the capital they have subscribed. However, the shareholders are liable for public debts of the company that could not be collected from the company in proportion to their capital subscriptions,
- Has an articles of association registered with the trade registry where its headquarter is located,
- Can be established with a sole shareholder, both real and legal persons can be shareholders, however, the number of shareholders cannot exceed 50,
- Transfer of shares is subject to the approval of the general assembly,
- The minimum capital amount required for establishment is TRY 50,000,
  - No upfront payment is required for the shares subscribed in cash and the capital amount must be paid within 24 months following the registration of the company.
- Bearer shares cannot be issued,
- Cannot be offered publicly.

CORPORATE STRUCTURES, CONT'D

Limited Liability Company (LLC), CONT'D

ADVANTAGES

- Lower minimum capital requirement,
- No initial capital payment is required,
- Capital amount can be paid within 24 months following the registration of the company.
- Has fewer legal procedures to fulfill annually

DISADVANTAGES

- The number of shareholders cannot exceed 50,
- The shareholders can be held liable for public debts of the company that could not be collected from the company in proportion to their capital subscriptions,
- Transfer of shares is subject to the approval of the general assembly and formal procedures before a notary public
- Bearer shares cannot be issued and cannot be subject to IPOs

In addition to evaluating feasible corporate structures for establishing their business, start-ups should also carefully consider the legal procedures for terminating their business activities in advance. If a start-up decides to permanently cease its commercial operations in Turkiye, then the liquidation procedure must be initiated as outlined in the TCC. During the winding-up process, the legal entity will maintain its existence albeit with the addition of the term "in liquidation" prefixed to its tradename. Nevertheless, the duties and powers of the board of managers or general assembly will be restricted throughout the liquidation. This limitation implies that, the companies will not engage in any further commercial activity unless required by compulsory situations with the sole purpose of creating a better valuation of the current assets. It is also essential to be aware of involuntary dissolution procedures through court order and technical bankruptcy situations. The voluntary liquidation process normally takes around 1 – 1,5 years.

ENTERING THE COUNTRY

The geographical position of Turkiye offers a notable benefit for investors aiming to spread their operations across Europe, the Middle East and CIS countries. Additionally, Turkiye's open foreign investment policy, ensures equitable treatment for both local and foreign investors, instils confidence among the foreign investors. Turkiye actively engages in signing bilateral and multilateral agreements, creating a favourable environment for economic collaboration by outlining standards of treatment for investors and their investments. Furthermore, Turkiye's membership to the Customs Union since 1996 and its Free Trade Agreements signed with 27 countries provide unique opportunities for foreign investors.

Typically, subject to some exceptions, most regulations do not require any Turkish participation in the capital or management of a foreign capital company, allowing businesses to be established entirely with foreign capital. Significantly, they are subject to equal treatment as domestic investors. As such, the incentives also apply to their investment arrangements, offering more flexibility when the investment structure is properly designed. However, in practice, engaging with Turkish nationals for daily business operations is often advisable.

Foreign Direct Investment Law, is the main foreign investment legislation in Turkiye, which has been further liberalised with recent amendments. Foreign ownership is essentially unrestricted, and anybody or any entity, regardless of nationality or citizenship, is free to invest in Turkiye without any authorisation or permission needs. Regardless of their ownership structure or the percentage of foreign investor engagement, legal entities established with foreign capital are treated as domestic companies under Turkish Law. Foreign investors are only required to notify the General Directorate for Incentives Implementation and Foreign Capital under the Ministry of Industry and Technology about the investment type, the amount of capital invested, and the shareholding structure. Additionally, they have to provide the Ministry with an annual report on their investment activities, which includes capital increases, share transfers and payments relating to such. The Electronic Incentive Application and Foreign Investment System (E-TUYS) is the electronic platform used for such reporting process.

ENTERING THE COUNTRY, CONT'D

Lastly, it is important to note that there are some restrictions on foreign investment in industries such as mining, insurance, banking, radio and television broadcasting, civil aviation, and financial advising. The main focus of these restrictions revolve around the requirement to establish a local investment entity in Turkiye which is controlled by Turkish nationals.

INTELLECTUAL PROPERTY

The following IP rights can be registered:

Trademarks

What is protectable? Any signs like words, figures, colors, numbers, sounds and the shape of goods or their packaging that are capable of distinguishing the goods or services and being represented on the register in a manner to reflect the clear and precise subject matter of the protection granted to its owner may be protected as trademark. The main piece of legislation regulating and governing trademarks is the Industrial Property Code no. 6769. In principle, trademark rights are acquired through registration. However, there are a few exceptions to this principle. Accordingly, signs that have acquired distinctiveness due to prior use, well-known trademarks within the framework of Article 6bis of the Paris Convention enjoy trademark protection regardless of registration. Similarly, genuine right ownership to a non-registered trademark or to another sign used in the course of commerce is a recognized status under Turkish law. Additionally, non-registered trademarks may be protected under the Turkish Commercial Code no. 6102 against unauthorized use or confusing similarity.

Where to apply? Applications for trademark registrations can be filed either before (i) the Turkish Patent and Trademark Office ("TÜRKPATENT") or (ii) the World Intellectual Property Organization (WIPO) under the Madrid System. The application for a national trademark is filed via EPATS Electronic Application System platform through https://epats.turkpatent.gov.tr/run/TP/EDEVLET/giris. If the applicant of the trademark is a foreign real person or a foreign legal entity, the application should be filed by an authorized trademark attorney duly registered for representation before TÜRKPATENT. Trademark applications are subject to initial ex officio examination of TÜRKPATENT conducted based on absolute grounds of refusal. If the application passes the ex officio examination, it is published in the Official Trademark Bulletin. Third parties are entitled to file opposition against the published trademark application for two months starting from the publication date. Oppositions are examined by the Trademark Directorate at the first instance and may be appealed before the Re-examination and Evaluation Board. In conclusion of the opposition proceedings if any, the trademark application is registered upon payment of the relevant fees.

Duration of protection? The protection commences from the date of application and remains valid for 10 years with the option for renewal every 10 years subject to payment of associated official fees.

Costs? Application fee for each of the first and second classes costs approximately EUR 45. Application fee of approximately EUR 48 are charged per additional classes from the third additional class onwards. Registration fee is approximately EUR 106.

INTELLECTUAL PROPERTY, CONT'D

Patent

What is protectable? Inventions in all fields of technology satisfying the criteria of being novel, involving an inventive step and being capable of industrial application may be protected through patent. According to the Industrial Property Code no. 6769, "novelty" refers to inventions that are not included in the current state of art, and inventions are deemed to contain "inventive step" if the invention is not obvious to the expert of the relevant field given the current state of art, and inventions are "applicable to industry" if they could be produced or used in any field of industry including agriculture. The categories exempted from patent protection are enshrined under the Industrial Property Law no. 6769 including but not limited to computer programs. Patent rights are acquired through registration.

Where to apply? A patent registration can be obtained either through (i) national application before TÜRKPATENT or (ii) international application procedures per European Patent Convention 1973 or the Patent Cooperation Treaty 1970. Application for patent registration is filed via EPATS Electronic Application System through https://epats.turkpatent.gov.tr/run/TP/EDEVLET/giris). If the applicant of the patent is a foreign real person or a foreign legal entity, the application should be filed by an authorized patent attorney duly registered for representation before TÜRKPATENT. A complete package of patent application includes (i) description defining the subject matter of the invention, (ii) claims, (iii) pictures referred in the description or claims and (iv)abstract. Applications are examined through several stages including formality check, search request, preparation of search report, publication, examination request and preparation of the examination report. If all these phases result in granting the patent by TÜRKPATENT, the decision of granting the patent is published on the Official Patent Bulletin. Third parties are entitled to file opposition against the decision of granting the patent within six months commencing from the publication of the decision.

Duration of protection? The term of protection is in any case a maximum of 20 years from application date and may not be extended.

Costs? Application costs for national patent is approximately EUR 12 and cost for drafting the patent certificate issuance fee upon the decision of granting the patent is approximately EUR 73. Fee for patent renewal increases each year and ranges from approximately EUR 58 for the second year to approximately EUR 300 for the twentieth year.

Employee invention and inventor bonus? Inventions developed by employees are classified in two categories; (i) service inventions, which are inventions made by the employee in the course of its employment relationship either while performing the task that it has been assigned to or largely based on the experience and activity of the company for which the employee is working, (ii) free inventions, which are inventions that do not fall into the service invention category. In principle, free inventions belong to the employee subject to the employee's obligation to inform the employer and employee's obligation to make an offer to the employer under certain circumstances. On the other hand, employer can claim partial or total ownership of a service invention by notifying the employee in writing. If the employer claims total ownership, all rights to the invention pass to the employer on the notification of the employee. If the employer claims partial ownership, the rights to the invention partially pass to the employer on the notification of the employee, and the remaining part of the invention becomes a free invention as a rule. In both cases, the employee is entitled to reasonable compensation from the employer as inventor bonus in consideration of the employer's benefit in exploiting the subject invention.

INTELLECTUAL PROPERTY, CONT'D

Utility Model

What is protectable? Utility models are granted for inventions which are novel and capable of industrial application. The essence of utility model protection is generally similar to patent protection, however, they differ from each other at certain points. For instance, inventive step required for patentability is not required for utility models. Utility models are acquired through registration.

Where to apply? The authority for registration of utility model is TÜRKPATENT. The application and registration procedure for patent are generally applicable for utility models although two procedures are not identical to each other. (Please refer to the above explanations with respect to application for patent to understand the general framework)

Duration of protection? In contrast to patents, the term of protection is valid only for 10 years and may not be extended.

Costs? Application fee for utility model is approximately EUR 12 Fee for drafting the utility model certificate issuance fee upon the decision of granting the utility model is approximately EUR 73. Fee for utility model renewal increases each year and ranges from approximately EUR 52 for the second year to approximately EUR 101 for the tenth year.

Designs

What is protectable? Design refers to the outer appearance of a product or its ornamentation. Designs are granted protection provided that they are novel and have an individual character. A design is protected as a registered design if registered in accordance with the provisions of the Industrial Property Law no. 6769 and a design is protected as a non-registered design if it is presented to the public for the first time in Türkiye. If a design that is identical to the design for which protection is sought has not been presented to the public in any part of the world prior to the subject design, it is deemed "novel". If the overall impression that the design for which protection is sought leaves on informed consumer differs from any other design presented to the public prior to the subject design leaves, it is accepted to "have an individual character". Design owner is entitled to exercise its rights arising from the Industrial Property Law no.6769 against the designs that do not have an individual character comparing to its own design. The general structure of the Industrial Property Law no. 6769 makes a distinction between the registered and non-registered designs and confers a stronger layer of protection to the former.

Where to apply? Application for national design registrations are filed before TÜRKPATENT. As Türkiye is party to Hague System, intellectual design applications could be made through Hague System. Design applications are filed via EPATS Electronic Application System through https://epats.turkpatent.gov.tr/run/TP/EDEVLET/giris). If the applicant of the design is a foreign real person or a foreign legal entity, the application should be filed by an authorized attorney duly registered for representation before TÜRKPATENT. The Office reviews the design application in terms of formal requirements and novelty criteria and decides on its publication in the Official Design Bulletin should the subject design passes the initial examination. Third parties may file opposition against the design registrations within three months starting from their publication. Depending on the result of the opposition proceedings, design is officially registered and then certificate of design registration may be issued.

Duration of protection? The term of protection is five years starting from the filing date and may be renewed five times for another five year-long period upon payment of the renewal fee. The maximum term of protection is 25 years.

Costs? Application fee costs approximately EUR 33. An additional fee of EUR 11 per additional design application is applicable. Renewal fee costs around EUR 104.

INTELLECTUAL PROPERTY, CONT'D

Domain Names

What is protectable? Names identifying the Internet protocol address used to determine the address of computers or Internet sites on the Internet are protected as domain names under Turkish law. Domain names are subject to registration.

Where to apply? Based on the recent amendments of Turkish law, management authority for ".tr" domain names is assigned to Information Technologies and Communication Authority. For managing the ".tr" domain names a platform named ".tr Network Information System" ("TRABIS") was established. The official website of TRABIS is https://www.trabis.gov.tr/ Allocation of Country Code Top Level Domain Names (ccTLD) is carried out with the "first come, first served" principle, without any documents and in the order of application time. In the past, it was required to have a trademark application / registration or registered trade name for registering ".tr" domain names. Application proceedings are conducted through intermediary entities authorized by Information Technologies and Communication Authority as listed at the following link: https://www.trabis.gov.tr/page/2 . The dispute resolution for ".tr" domain names is managed by Dispute Resolution Service Providers authorized by and accredited to TRABIS. The legal grounds are aligned with ICANN's Uniform Domain Name Dispute Resolution Policy.

Duration of protection? The domain name is allocated for a minimum of one and a maximum of five years at a time. The use of the domain name for which the renewal process is not completed until the end of the allocation period is suspended for two months. Within this period, the domain name allocation process is renewed upon the application of the domain name owner. The allocation period after renewal cannot exceed five years.

The following IP rights cannot be registered:

Copyright

What is protectable? Intellectual and artistic works bearing the characteristics and originality of the author being classified as a work of science and literature, musical work, fine arts or cinematographic work pursuant to the Law on Intellectual and Artistic Works no. 5846 are granted copyright protection. There are sub-titles within each category that provide more extensive lists of copyrightable works. Computer software and databases are also subject to copyright protection, provided that they are original pieces of work, which reflect the characteristics and originality of the author. Copyright protection is automatically acquired upon creation of the work meaning that there is no registration system that materially creates the right. However, there is a compulsory registration requirement for cinematographic works, musical works and computer games for the purposes of exploitation of rights and facilitation proof of ownership with no purpose of creating any rights. It is also possible to optionally register other types of works. The authority in charge of compulsory and optional registration of copyright is the General Directorate of Cinema and Copyrights under the auspices of the Ministry of Culture and Tourism.

Duration of protection? Copyright protection starts from the first communication of the work to the public and lasts for 70 years after the author's death.

Exploitation of copyright protected work? Copyright owners enjoy economic and moral rights to their copyrighted works. Economic rights vested in copyright owners are right of adaptation, right of reproduction, right of distribution, right of performance, right of communication the work to the public by devices enabling the transmission of signs, sounds and images. Moral rights vested in copyright owners are right to disclose the work to the public, right of attribution being named as the author, right to the integrity of the work enabling author to prohibit unauthorized modification of the work. The copyright owner may assign its economic rights to third parties. Such assignment agreement must be in written form and specifically list the assigned rights. Although there is no notarization requirement for satisfying the written form requirement form, it is recommended to legalize such agreements before a notary public. On the other hand, the copyright owner cannot assign or waive its moral rights to the work, but it can license the right to use the moral rights. If a work is created by an employee during the execution of its duties, the employer is the legal owner of the right to exercise the financial rights over such work although not the owner of the financial rights per se. Due to the strict regulation of copyrights in Türkiye, it is generally advisable to execute separate agreements to assign the economic rights once the work comes into existence.

INTELLECTUAL PROPERTY, CONT'D

Trade Secret

What is protected? Trade secrets are generally accepted as confidential commercial information that has a commercial value. Therefore, information, documents, models, database, codes, algorithms, know-how and other confidential knowledge with commercial value to its owner and protected with measures against disclosure could be protected as trade secret. While there is no specific piece of legislation particularly regulating trade secrets under Turkish law, trade secrets are recognized and conferred a certain level of protection. There is no specific regulation for trade secrets in Türkiye, therefore, trade secrets may be protected through means of general laws. Particularly, unfair competition rules under Turkish Commercial Code are applicable for protection of trade secrets especially against their unauthorized use and disclosure. Depending on the nature of unauthorized use (for example, the disclosure of confidential information by a former employee), there may be different legal grounds under which the owner can claim protection, including criminal, employment, and commercial law. As protection of trade secret is not extensively established by law, it is preferable to protect trade secrets through clear contractual terms to the extent business relationship of contracting parties allows. There is no official requirement for registration of trade secrets.

Duration of protection? Protection granted for trade secrets is not limited to a certain period of time. As long as appropriate measures are taken and information has a commercial value, trade secret protection applies.

DATA PROTECTION/PRIVACY

Legislative Framework

The main source of rules for protection of personal data in Turkiye is the Law on the Protection of Personal Data numbered 6698 ("**LPPD**") which entered into force in 2016. LPPD is prepared based on EU Directive 95/46/EC on Data Protection, therefore it was a step towards harmonization with EU legislation on protection of personal data and it continues to be inspired by the provisions of the European General Data Protection Regulation ("**GDPR**") and the decisions of European data protection authorities. There is also a substantial case law being developed by the decisions of the Personal Data Protection Board ("**Board**") which is a body of the Personal Data Protection Authority ("**Authority**") that has the authority to oversee the regime in Turkiye. Territorial scope of LPPD is not only data controllers in Turkiye, but also data controllers not residing in Turkiye who targets data subjects and process personal data of data subjects in Turkiye.

Recent Major Amendments

Since the enactment of the LPPD, persistent challenges have been encountered in the processing of sensitive personal data and cross-border data transfers, and such challenges have frequently resulted in practical impediments in implementation of the LPPD in Turkiye. In response to the evolving practical needs and the long coming objective of harmonising Turkish personal data protection legislation with the GDPR, amendments to the LPPD were published on 12 March 2024 and came into force as of 1 June 2024 (the "**Amendments**").

DATA PROTECTION/PRIVACY, CONT'D

Processing of Sensitive Personal Data in light of the Amendments

Prior to the Amendments, the processing of sensitive personal data was contingent upon the explicit consent of the data subjects. Considering the fundamental principles of personal data protection explicit consent must be the last resort legal basis, however its mandatory application in practice had created an unsustainable and legally uncertain scenario. With the Amendments, the scope of lawful processing of sensitive personal data has been significantly broadened and new legal grounds for processing of sensitive personal data have been introduced. Accordingly, sensitive personal data (including health data and personal data related to sexual life) may be processed if one of the following legal grounds is present:

1. The explicit consent of the data subject is obtained,
2. Processing is expressly stipulated by laws,
3. Processing is necessary for the protection of the life or physical integrity of the data subject or another person who is unable to give consent due to physical impossibility, or whose consent is not legally valid,
4. Processing is relevant to personal data publicized by data subject and is in accordance with the intention of data subject of making it public,
5. Processing is necessary for the establishment, exercise, or protection of a right,
6. Processing is compulsory by persons under the secrecy obligation or competent authorities or institutions for the protection of public health, preventive medicine, medical diagnosis, treatment and care services, planning, management, and financing of health services,
7. Processing is necessary for fulfilment of legal obligations relating to employment, occupational health and safety, social security, social services, and social benefits,
8. Where foundations, associations, and other non-profit organizations or formations established for political, philosophical, religious, or trade union purposes, provided that it is in accordance with the relevant legislation to which these organizations are subject and aligned with their stated purposes, processing is limited to their field of activity, and data is not disclosed to third parties; processing pertains to their current or former members, affiliates or individuals who are in regular contact with these organizations and formations

Accordingly, processing of sensitive personal data is allowed when at least one of the legal grounds listed above is present for the processing activity. It should also be noted that while the explicit consent is listed as a valid legal ground for processing of sensitive personal data, it is intended as a last resort to be applied when no other legal grounds are viable for the processing. Therefore, in the availability of other legal grounds, data controllers should not request explicit consent of the data subject.

It is recommended for the companies to reassess and align their existing compliance practices with the above-mentioned changes. This necessitates a review and revision of existing privacy policies, privacy notices etc. With the updates to be made to the existing practices, current data subjects should be informed that their personal data will now be processed on the new legal grounds without relying on their explicit consent.

Transfer and International Transfer of Personal Data in light of the Amendments

Prior to the recent Amendments, cross-border transfer of personal data have been a longstanding bottleneck in Turkiye's personal data implementation, as explicit consent of data subjects was the only viable mechanism. With the Amendments, personal data may now be lawfully transferred outside Turkiye if at least one legal basis for processing is present. Such cross-border transfers shall either be conducted in accordance with an adequacy decision to be published by the Authority, or in the absence of such decision, through one of the appropriate safeguards newly introduced under the LPPD. It should be noted that since the LPPD's enactment in 2016, the Authority still have not established a list of countries providing adequate protection, meaning no countries have been designated as safe for unrestricted data transfers. This, as it currently stands, necessitates utilization of one of the recognized appropriate safeguards for cross-border transfer.

The appropriate safeguards recognized with the Amendments are briefly as follows:

- Execution of a written undertaking by data exporter and data importer, containing provisions to ensure adequate protection and authorization of the cross-border transfer by the Board,
- Data controllers operating within a group of companies may establish binding corporate rules ("**BCRs**") to facilitate intra-group data transfers and submit them for Board's approval. Once approved by the Board, group companies may lawfully transfer personal data amongst the group under the approved framework,
- Execution and submission of the Standard Agreements ("**SCCs**") predetermined and published by the Board.

DATA PROTECTION/PRIVACY, CONT'D

Transfer and International Transfer of Personal Data in light of the Amendments, CONT'D

The most significant reform introduced with the Amendments is the adoption of the SCC mechanism closely resembling the Standard Contractual Clauses under the GDPR. Amongst the other recognized appropriate safeguards for cross-border transfer, execution of Standard Agreements have already became the primary method for cross-border data transfers in Turkiye. The Board has issued four (4) official templates for SCCs, along with application forms and guidance on BCR implementation, all of which are accessible via the Authority's website. However, unlike the SCCs under the GDPR, the implantation of SCCs under the LPPD presents a stricter framework, as they are required to be executed (signed in wet ink) without making any amendments and must be submitted to the Authority within five (5) business days following the date of execution. The submission must also include supporting documentation verifying the authorization of the signatories, which must be apostilled and their notarized Turkish translations must also be submitted.

The preparation of SCCs also requires significant diligence from both the data exporter and the data importer, as they must comprehensively include the following information under the Annexes of SCCs; (i) the activities of the data exporter and the data importer in relation to the personal data transferred, (ii) the groups of persons to whom the transferred personal data relate, (iii) categories of personal data transferred and categories of special categories of personal data transferred, if any, (iv) the legal grounds for the transfer, (v) frequency of transfer, (vi) the nature of the data processing activity, (vii) the purposes of the data transfer and subsequent processing, (viii) retention periods of personal data, (ix) importers or groups of importers, (x) Data Controllers Registry Information System (VERBIS) information of the data transferor, (xi) the subject, nature and duration of the processing activity in transfers to the Data Processor and Sub-Processor, (xii) the technical and administrative measures taken, and if any, in case of transfer of special categories of personal data , the technical and administrative measures taken separately for such special categories of data, and (xiii) list of sub-processors, if any.

Finally, in the absence of an adequacy decision or where data controllers are unable to implement any of the prescribed safeguards, the LPPD allows cross-border data transfers under certain limited exceptions that strictly apply only to incidental transfers, meaning transfers that occur on a one-time or occasional bases and are not part of the ordinary course of business operations of the data controller. The exceptions are conditional on various limitations indicated under the LPPD.

Finally, with the Amendments, a new administrative fine has been added to the LPPD. In case of a failure to comply with the obligation to notify the Authority within 5 business days upon the execution of the SCCs, administrative fines ranging from 90,308 Turkish Liras to 1,806,177Turkish Liras for 2026, with the reassessed rate, shall be imposed. Additionally, if it is determined that an appropriate safeguard has not been provided in the international data transfer processes by data controllers by September 1, 2024, there is a risk of an administrative fine ranging from 256,357 Turkish Liras to 17,092,242Turkish Liras for 2026.

Data Controllers' Registry (VERBIS) Obligation

Data Controllers residing in Turkiye are obliged to register with VERBIS under certain conditions, and data controllers residing abroad must also register with VERBIS if they process personal data of data subjects in Turkiye even if they do not have a presence in Turkiye. For this purpose, the controllers are obliged to prepare data inventory and data retention policy and then get an account at VERBIS and fill in the VERBIS questionnaire. The data inventory is something very similar to Article 30 of the GDPR and VERBIS questionnaire is a very detailed list of questions regarding the same. Foreign data controllers are obliged to appoint a contact person who must be either a Turkish legal or real person. According to the Regulation on Data Controllers' Registry, in case a foreign data controller targets Turkish data subjects in Turkiye and act as data controller in Turkiye, they must be registered with VERBIS and appoint a data controller representative. The representative must be either a Turkish legal entity or real person having Turkish citizenship. The representative must have the authority to represent the data controller at least for the following matters; i) to receive or accept the notifications or correspondence sent by the Authority on behalf of the data controller, ii) to forward the requests made by the Authority to the data controller and to forward the data controller's answers to the Authority, iii) to receive the applications of data subjects on behalf of the data controller and forward the applications of data subjects to the data controller, iv) to forward the answer of the data controller to the data and v) to do the necessary work regarding VERBIS on behalf of the data controller.

DATA PROTECTION/PRIVACY, CONT'D

Data Controllers' Registry (VERBIS) Obligation, CONT'D

With the Amendments, foreign data controllers must now pay greater attention to VERBIS registration obligation especially in light of the new submission requirement regarding the SCCs, as they usually partake in the SCCs as data importers and thereby process the personal data of individuals in Turkiye, triggering the VERBIS registration obligation. Due to the requirement of submission of SCCs, likelihood of detection by the Authority is increased, and non-compliance with VERBIS obligations is more visible, making the enforcement risks for foreign data controllers operating in Turkiye higher.

ARTIFICIAL INTELLIGENCE

Turkey still does not have a standalone AI regulation enacted and the main framework remains general laws. That being said, there are pending legislative proposals in the Parliament. A dedicated AI Law proposal have been submitted on 24 June 2024 and there are additional proposals which require clear labeling of AI-generated fake content and introduce administrative sanctions but these are not satisfactory piece of legislation in terms of AI regulations.

Under the Turkish Civil Code, legal recognition is granted to both natural and legal persons, with each possessing rights and obligations within the legal structure. AI's classification under this structure still remains a subject of debate, with some scholars arguing AI to be a legal person, while some scholars argue AI to be an enslaved entity similar to the classic classifications under the ancient Roman Law, while some others argue against legal personality of AI altogether.

General rules for data protection and copyright law shall apply for AI specific cases, despite the absence of AI specific legal framework at the moment. As for copyright matters the general rule appears to be that an AI programs cannot have rights to the works it creates and that only human creativity can be protected within the framework of copyright protection. As from data protection aspect, AI based applications must ensure transperancy in their data processing activities and take necessary measures to protect data subjects' personal data in order to be in conformity with the LPPD in Turkiye. Moreover, regulatory authorities are expected to audit such AI system to ensure they operate in conformity with the legislation. Currently, the primary legal instrument applicable to AI related personal data processing remains to be the Article 11 of the LPPD, which provides data subjects with the right to right to object to occurrence of a result to the detriment of the person by analyzing the personal data processed exclusively through automated systems. Therefore, if the results produced through autonomous decision making system are to the detriment of the data subject, the data subject shall have a right to object to it. In light of the increasing convergence between AI and data privacy, the Personal Data Protection Authority has issued "Recommendations for the Protection of Personal Data in AI Applications" and the "Guidance on Generative AI and Personal Data Protection in 15 Questions" emphasizing human oversight accountability, data minimization, anonymization of personal data, regular risk assessments for high-risk and generative AI applications. With the recent Guidance, high risk areas are highlighted, such as, hallucinations, bias, confidentiality, security and deepfakes while also emphasizing legal basis assessment, transparency and privacy by design expectations. While these non-binding recommendations are a positive step toward integrating AI-specific data protection principles into Turkish law, legally enforceable regulations are required to be issued.

EMPLOYEES/CONTRACTORS

Under Turkish law, a person working based on a dependency principle would qualify as an employee, and the counterparty undertaking to pay salary or wage shall qualify as an employer. Any salaries and other benefits paid to employees should be reflected to the payroll, and the employers are obliged to pay social security contributions on behalf of the employees to the Turkish Social Security Institution ("SSI"), as well as any related taxes. However, these payments cannot be made unless through a Turkish establishment (or branch/representation office) based in Turkiye.

Self-employment (e.g. as a contractor or freelancer) is unregulated under Turkish law. In this regard, there is not a specific set of rules providing the conditions of being a contractor serving a company. Therefore, there is always a risk that any contractors may be deemed an employee by Turkish labour courts. That being said, there are very well known recruitment companies providing services for undertakings so that undertakings benefit from the services without employing personnel but again risks exist from labour law perspective.

Employment Contracts

Save for some certain type of employment contracts, Turkish law does not require a written contract to be executed between the parties and only requires employers to provide a basic document setting out the employment conditions to the employee. However, it is recommended to execute written contracts for evidential purposes. Different types of employment contracts under the Turkish Labour Act ("TLA") are as follows:

- Indefinite terms and fixed-term contracts.
- Full-time - part-time contracts.
- Temporary contracts.
- On-call, team contracts.
- Remote working contracts.

Fixed term and Indefinite Term Contracts: Under the TLA, the main type of employment contract is indefinite term contract. There must be an objective reason such as i) existence of a fixed-term work by its nature, ii) presence of a specific work to be completed, or iii) emergence of a certain event, in order to conclude a fixed-term employment contract, otherwise it will be construed as an indefinite term contract from the commencement of the employment relationship.

Remote Working Contracts: Remote working contracts must be executed in writing, and they must include the i) definition, method, term and place of work, ii) salary and payment, iii) work tools, equipment and protection obligation concerning them, iv) communication between the employer and the employee, and v) special and general conditions of employment.

Probationary Period: The maximum duration of probation is 2 months, and it must be agreed explicitly in the employment contract to apply. During this time, either party can terminate the employment relationship without notice, compensation and without any reasonable ground for termination.

Minimum Terms and Conditions of Employment

Maximum Working Day and Overtime
The maximum working day is 11 hours, and maximum working week cannot exceed 45 hours. If the employee works more than 45 hours per week, salary for each hour of overtime worked should be compensated at 1.5 times the employee's normal hourly rate (i.e. applying a 1-1.5 ratio). In any case, employees cannot work for more than 11 hours in any day inclusive of overtime. According to the TLA, the parties can agree under the employment contract that overtime work up to 270 hours per year is included in salary. This is also general practice in Turkiye.

EMPLOYEES/CONTRACTORS, CONT'D

Minimum Terms and Conditions of Employment, CONT'D

Annual Paid Leave
The employees will be granted paid annual holiday if they have worked for at least one year as follows:

Length of Service	Holiday Entitlement
1-5 years (inclusive)	14 working days
5-15 years (inclusive)	20 working days
15+ years	26 working days

Parties can extend holiday periods under the employment contract.

Different Types of Leave
Different types of leave provided under TLA are as follows:

- Maternity leave,
- Paternity leave,
- Adoption leave,
- Parental leave,
- Sick leave,
- Marriage Leave,
- Bereavement leave.

Termination Procedure
The TLA provides protection to employees in particular cases ("job security provisions"). If an employee has been working for at least 6 months at a workplace having 30 or more employees based on an indefinite employment contract, the employer can only terminate the employment contract by relying on a valid reason or just ground. According to the Court of Cassation precedents, foreign affiliates of global companies are considered in determining the total number of employees in these workplaces. Valid reasons can be related to the capability or behaviour of an employee, or the requirements of the enterprise, workplace or the work.

Termination Indemnities
Before terminating the employment agreement relying on poor performance or misbehaviours, the employee must be informed of his/her poor performance or misbehaviours and the employee's written defense must be taken. The employer should clearly explain the reasons for the termination in the termination letter. The termination letter should be signed by representative(s) of the employer who are authorized to terminate employment contracts and also it must be counter-signed by the employee.

EMPLOYEES/CONTRACTORS, CONT'D

Minimum Terms and Conditions of Employment, CONT'D

Termination Indemnities, CONT'D
In brief, termination indemnities are as follows:

Notice Periods & Notice Payment: In principle, employees must be granted a notice period before the termination. However, Turkish law permits employers to terminate the contracts by making a payment in lieu of notice. In this respect, the TLA sets out the minimum notice periods to be given by both employers and employees as follows:

Length of Service	Notice Period
Less than 6 months	2 weeks
6 to 18 months	4 weeks
18 to 36 months	6 weeks
Over 36 months	8 weeks

Severance Payment: Except for the employee's resignation or the employer's termination of the employment contract for just cause, employees working based on permanent employment contracts and over one year's service are entitled to receive a severance payment on the termination of their employment. The severance pay is calculated by multiplying the years of service by one month's average total remuneration (i.e. salary and benefits such as bonus). However, severance pay will be capped at ₺35,058.58 (subject to adjustments) per year of service (rates applicable between 1 January 2024 and 30 June 2024). Severance payment for a partial year is calculated on a pro rata basis.

Outstanding Holiday Pay: Employees are entitled to receive a sum equal to any accrued holiday which remains outstanding as at the termination date. This is calculated on the basis of 1/365th of annual salary per day of accrued holiday.

Work for Hire

Turkish law does not have a specific regime on "work for hire". However, it regulates temporary employees. Temporary employees are defined as employees who are employed by an authorized private employment agency to work temporarily for a hirer, and the employees allocated to another workplace within the same group companies. Employment of these employees is subject to certain time restrictions depending on the occasion. Temporary employees can be hired through an authorized private employment agency with regard to certain occasions such as:

- Provision of housekeeping services,
- Works falling outside those performed as part of the daily routine and performed intermittently,
- Works that need to be urgently performed for the sake of occupational health and safety or in cases of force majeure significantly affecting the manufacturing,
- In cases where the average capacity of good manufacturing and service provision of the undertaking increases to an unprecedented degree necessitating the establishment of a temporary employment relationship,
- In cases where the amount of the work increases periodically excluding seasonal work,
- In cases where an employee's employment contract is suspended during maternity leave, part-time work followed by maternity leave and military service, only for the period of suspension.

CONSUMER PROTECTION

IIn Turkiye, the central piece of legislation regarding consumer protection is the Law on the Protection of Consumers numbered 6502 ("CPL") the purpose of which is to protect health, safety and economic interests of consumers, to compensate their damages, to raise awareness of consumers and to encourage consumers to take initiatives to protect their interests. Additional primary legislation that must be adhered to includes the Regulation on Distance Selling Contracts and Electronic Commerce Law. Key highlights and obligations to take note of in light of the consumer protection legislation include the following;

- Contracts and information presented to consumers must be in at least twelve point font size, in a clear, simple and understandable manner.
- The provisions stipulated in the consumer contract established between the parties cannot be changed to the detriment of the consumer during the term of the contract.
- Unfair terms in contracts concluded with consumers are null and void.
- The sale of goods displayed in a shop window, on a shelf, in electronic media or in any other clearly visible place cannot be avoided unless a statement that the goods are not for sale is included. Similarly, providers may not refrain from providing services without a justifiable reason.
- Contracts established by using remote communication tools up to and including the moment of the conclusion of the contract between the parties within the framework of a system established for the distance marketing of goods or services, without the simultaneous physical presence of the seller or provider and the consumer are distance selling contracts. Purchases made on social media and text messages can be considered within the scope of distance contracts.
- The consumer must be informed in writing or by means of a permanent data storage device before the conclusion of the contract (making any payment) on certain matters regarding the distance contract.
- If there is no specific promised delivery time for purchases made over the internet or telephone, the seller must send the goods within thirty days at the latest. If the goods are not sent within this period, the consumer has the right to terminate the contract and receive all payments back with legal interest within fourteen days.
- The seller is responsible for loss and damage until the delivery of the goods to the consumer. If the consumer has requested the goods to be sent by a carrier other than the carrier determined by the seller, the seller is not responsible for any loss or damage that may occur from the delivery of the goods to the relevant carrier.

Additionally the legislation with regards to consumer direct marketing should be paid attention to. Under Turkish law the commercial messages are regulated by the Regulation on Commercial Communication and Commercial Electronic Messages ("Regulation") and the Law on Regulation of Electronic Commerce ("Law"). According to the Regulation, sending commercial electronical messages is conditional on consent to be taken from the receiver of the message. Moreover, there is an online system in place that must be considered, called IYS (Message Management System) working under supervision of the Ministry of Trade with which message senders and message recipients are registered and consent are being managed. Pursuant to the Regulation, real or legal persons who provide commercial communication tools such as calls, messages, e-mails, etc. are referred to as service providers, and service providers are required to register themselves with IYS and upload the consents they obtained to IYS. On a last note, a sole opt-out approach or pre-selected tick box approach would not be accepted as consent and if according to the Regulation the recipient is not a merchant / tradesman the commercial electronical message that was sent without consent would constitute a violation of the Regulation and the Law.

TERMS OF SERVICE

Under Turkish Law, texts such as terms of service and general terms and conditions are the contractual provisions that the drafter prepares and presents to the other party in advance, alone, in order to be used in a large number of similar contracts in the future. However, general terms of service, i.e. contracts drafted by one of the parties and presented for signature without giving the other party the chance to make any amendments or negotiate the provisions, are valid only and legally binding in the presence of certain conditions, as in they are only valid and binding if both parties are willing to execute the agreement and the other party is not obliged to sign the agreement against his/her will. Moreover, pursuant to the consumer protection legislation, in the cases where the consumer cannot influence the content of the agreement due to the contact being prepared in advance and included as a standard contract, it is considered that such agreement was not negotiated with the consumer. Therefore, provisions of such agreements may be deemed unfair terms. Also, the consumer protection regulations must be adhered to. Terms of service should not provide lesser protection than the legislation and must not bring about disadvantages to the consumer.

Moreover, the other party must be informed in detail and separately of the provisions of the agreement. Another issue regarding the enforceability of terms of services presents itself in the burden of proof. They are only considered a prelude to evidence and must be proven with other instruments such as log records, e-mail correspondence, documents evidencing the service is procured etc. In addition, pursuant to the legislation, in respect of some provisions the agreement must be prepared in writing to be valid and binding, for example, the provisions regarding the choice of jurisdiction and the application of the laws of another country will not be valid and binding unless made and signed in writing.

On the other hand, provisions of the data protection legislation should also be considered. It must be noted that consent of data subjects cannot be collected through the acceptance of terms of service. Moreover, the Personal Data Protection Board concluded that it is not possible to condition the service on consent of data subjects and that consent cannot be asserted by data controllers as a prerequisite for the performance of a service.

TAX/FUNDING

Taxation

Corporate Taxation
Companies resident in Turkiye are subject to full tax liability, meaning that they are taxed on their worldwide income, whereas companies not resident in Turkiye are only taxed on their income derived in Turkey. The standard corporate income tax rate in Turkey is set at 25%, calculated over the taxable income which is calculated as all profits earned from earnings while expenses are deductible. It should be noted however that the corporate income tax rate for banks and financial institutions (i.e. payment companies, asset management companies, foreign exchange companies, capital market, insure companies etc.) are set at 30%.

A minimum corporate income tax regime is implemented effective as of January 1, 2025, in order to ensure that corporate entities are subject to minimum tax amount of at least 10% of their income, prior to the application of deductions. The purpose of this implementation is to prevent excessive tax reductions that may have been possible and to ensure that corporations contribute at least a certain level of taxation regardless of deductions and exemptions they may be benefiting from.

Withholding Tax
Withholding tax is levied on certain types of income, including dividends, interests, royalties etc. and the obligation to withhold and remit the tax lies with the taxpayer who must deduct the applicable tax amount before making their payments. Typically the withholding tax rates range between 0% to 20%, and it should be kept in mind that reduced rates may apply under various double taxation treaties.

Dividends distributed to non-resident companies or individuals (both resident and non-resident) are subject to withholding tax at the rate of 15%.

Interest payments made to non-residents are subject to withholding tax at the rate of 10%, and royalty payments made to non-residents are subject to withholding tax at the rate of 20%. Many double taxation treaties reduce the applicable rate down to 10%.

Value Added Tax (VAT)
The general VAT rate is 20% on the supply of goods and services, while the rate ranges from 1% to 20% depending on the nature of the transaction (certain goods and services benefit from reduced VAT rates, i.e certain agricultural products are taxed at 1% VAT, and basic food, textile and books are taxed at 10% VAT).

Imported goods and services are subject to VAT as domestic transactions, while exported goods and services are exempt from VAT (if services and goods are not used/ benefitted in Turkiye).

Companies have to file and pay VAT monthly to the relevant tax office. The balance of the VAT due and the input VAT deducted has to be paid to the tax office (if VAT burden) or is refunded by the tax office.

Incentives/Funding
There are a range of tax incentives available to foreign investors in Turkiye and key incentive programs include; (i) investment incentive program in which various tax benefits are provided to encourage capital investment, (ii) R&D incentives in which companies engaged in R&D activities can take advantage of additional tax deductions, reduced corporate tax rates, government grants and financial support, (iii) Free-zones in which companies located in designated free zones benefit from corporate tax, VAT and customs duty exemptions, (iv) Technoparks in which companies located in designated technology development zones benefit from corporate tax, income tax and VAT exemptions.

Incentive and funding programs in Turkiye are categorized under general, regional, priority and strategic investment incentive schemes, along with specialized programs targeting key industries and underdeveloped regions. Ministry of Industry and Technology pioneers in introducing the incentive and funding programs in Turkiye and oversees them. Details of such incentives schemes can be found in the official website of The Investment Office of the Presidency of the Republic of Turkiye which is the official organization for promoting investment opportunities in Turkiye.

TAX/FUNDING, CONT'D

Taxation, CONT'D

- For a comprehensive guide for government incentives, visit: https://www.invest.gov.tr/en/investmentguide/pages/incentives-guide.aspx
- For Turkiye's details to Turkiye's foreign direct investment strategy and action plan, visit: https://www.invest.gov.tr/en/pages/fdi-strategy.aspx
- For various guides tailored to help investors about doing business and investing in Turkiye, visit: https://www.invest.gov.tr/en/investmentguide/pages/default.aspx
- For an official guide to state incentives for investments in Turkiye, visit: https://www.invest.gov.tr/en/library/publications/lists/investpublications/guide-to-state-incentives-for-investments-in-turkiye.pdf
- For access to "Incentives Wizard" which is an investment incentive search engine, visit: https://www.yatirimadestek.gov.tr/incentives-wizard

WHAT ELSE?

Compliance with the competition legislation in Turkey is of the essence for foreign investors, as digital platforms especially are being closely monitored by the authorities in Turkiye. Competition legislation in Turkey includes regulations that are in parallel with EU competition directives, and it should be mentioned that competition legislation provisions should be adhered to when entering into contractual relationships with distributors, partnerships or when acquiring business in Turkiye etc.

Additionally, Law numbered 5651 on the Regulation of Publications on the Internet and Combating Crimes Committed through Such Publications ("Law") should be paid attention to. The purpose of this Law is to regulate the obligations and responsibilities of content providers, hosting providers, access providers and collective use providers, and the principles and procedures for combatting certain crimes committed on the internet through content, hosting and access providers. In general terms, a decision to block access to the relevant content or publication can be taken if the content causes the following situations; violation of personal rights, violation of the right to privacy, violation of the right to be forgotten on the internet, violation of laws and if it is deemed necessary for the protection of the right to life and the security of property, national security and public order. One of the highlights from the Law is regarding the obligation to appoint a representative for social network providers.

Lastly, the most critical legislative update recently is the enactment of the Cyber Security Law No. 7545 (the "**CSL**"), effective as of March 19, 2025. The CSL introduces a distinct regulatory framework governing data security and state oversight, operating independently from the LPPD, and imposes data localization and storage obligations on companies operating in certain regulated sectors. In addition, the CSL establishes a new public authority, namely the Presidency of Cyber Security (the "**Presidency**"), which is vested with broad powers to supervise, audit, and inspect data storage practices and the manner in which data are processed by entities operating in cyberspace. Under specific circumstances set out in the CSL, these powers may permit governmental access to, and intervention in, such data and related systems via the Presidency.

Data Localisation

The CSL, introduced a data localization obligation through two mechanisms:

- **Domestic Product Preference**: Companies operating in cyberspace are required to give priority to the use of domestic and nationally produced hardware and software for cyber security purposes. In practice, this obligation implies that the use of foreign cloud service providers or foreign-origin cyber security infrastructure will only be permissible where equivalent services are not available from domestic providers. Accordingly, reliance on foreign public cloud services may be restricted unless it can be demonstrated that no suitable local alternative exists.
- **Proportionate storage:** The CSL further requires that data be stored "proportionately to the risk". Proportionality, in this context, means that higher-risk or more critical data are subject to stricter storage and localization obligations. This provision should be interpreted to mean that sensitive commercial data or user data should not be stored exclusively on foreign public cloud infrastructures without the existence of a certified local instance or an equivalent localization safeguard.

WHAT ELSE?, CONT'D

Government Access

The CSL also introduced certain powers to the newly established Presidency which results in Governmental Access to the data of companies operating in the cyberspace. The powers given to the Presidency are as follows:

- **Audit Power:** The Presidency is authorized to conduct audits of companies' information technology systems at any time in order to assess cyber resilience and compliance with the CSL. Failure to comply with audit requests or to facilitate such inspections may result in the imposition of administrative fines and other sanctions.
- **No "Trade Secret" Defense:** During an audit, companies are legally obligated to provide all requested information, documents, software codes, and log records. They shall not refuse access based on commercial confidentiality.



UGANDA

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UGANDA

LEGAL FOUNDATIONS

Uganda has a common law system. Historically, Uganda was colonized by the British and is a member of the Commonwealth. The 1995 Constitution of the Republic of Uganda is the supreme law of the land. It recognizes laws enacted by Parliament, International Treaties, and Customs/ Culture of the people of Uganda under Objective XXIV and Article 37. International treaties ratified by Uganda do not automatically have the force of law unless domesticated by Parliament, except where relied upon in constitutional interpretation.

Uganda Legal Framework (2026 Position)

Uganda operates a common law system derived from English law. The 1995 Constitution is supreme. Laws consist of:

- Acts of Parliament
- Statutory instruments
- Case law
- Customary law (subject to constitutional compliance)
- Domesticated international treaties

Uganda does not operate a federal structure; it is a unitary state.

The Judicature Act Cap. 16 recognizes, adopts, and preserves the right to observe or enforce existing customs that are not repugnant to Natural Justice, Equity, and good conscience. This means that the indigenous customs of the people of Uganda are enforceable under Customary Law.

The main sources of law in Uganda are Acts of Parliament, Case Law, ratified International Treaties, Equity, Customary Law and Natural Justice.

UGANDA

CORPORATE STRUCTURES

There are different corporate structures that a start-up may consider in Uganda. Below we endeavor to summarize these structures and detail the pros and cons of each structure:

Company:

A company is a separate legal entity separate and distinct from its members. There are two (2) types of companies under Uganda's laws; private and public companies.

Governed by the Companies Act 2012 (as revised).

- May be incorporated with a single shareholder.
- Limited by shares (most common for tech startups).
- Separate legal personality.
- Limited liability for members.

Public companies are subject to Capital Markets Authority and Uganda Securities Exchange regulations if listing.

Types of Companies:
A public company is a company in which the transfer of shares is unlimited. Under the Companies Act 2012 (as revised), a company (private or public) may be incorporated with a single member while a private company is a company where the transfer of shares and other securities is limited. The number of members in a private company is limited to one hundred, excluding those who are employed by the company or have been employed by the company in the past. Additionally, a private company prohibits any invitation to the public to subscribe for any shares or debentures in the company.

A Public Company usually invites the public to buy shares. However, in Uganda, the Securities Exchange Rules of 2021 require companies to meet certain conditions before they can be listed on the stock exchange. These conditions include: being a limited company with a minimum authorised share capital of **50,000** currency points, having net assets of **100,000** currency points before offering shares to the public, publishing audited financial statements for at least 5 years that comply with International Accounting Standards, and ensuring that none of the Directors have been declared bankrupt, among other requirements. The Mandate to implement these Rules is vested in the Uganda Securities Exchange Commission with oversight of the Capital Markets Authority.

In Uganda, a company can be either limited or unlimited depending on the liability of its members or shareholders. Private companies can be formed as either companies limited by shares or companies limited by guarantee. A company limited by guarantee is one where each member agrees to contribute to the company's assets if it is being wound up during their membership or within one year after they cease to be a member. Such a company is considered a non-profit making entity. On the other hand, a company limited by shares is a company wherein the members take up shares and are liable to the extent of their unpaid shares in the company. A company that is limited by shares is typically regarded as a for-profit organization.

A technology start-up (hereinafter referred to as "tech-startup") would consider incorporating a private company limited by shares on the basis that the intention is to generate profits in the long run.

In this case, the corporate structure would include the shareholders who appoint the Directors. The Directors are then authorized and mandated to appoint appropriate Management staff to oversee the day-to-day operations of the Company and report to the Board of Directors who exercise oversight.

UGANDA

CORPORATE STRUCTURES

Foreign Company:
A tech-start up may consider registering a branch in Uganda. This is considered a foreign company since its place of incorporation is outside Uganda. The registration process requires submission of certified incorporation documents and additional forms required under Uganda's Companies Act Cap. 106 of the revised laws of Uganda, 2023.

Foreign investors must:
- Incorporate locally or register a branch.
- Obtain an Investment Licence under the Investment Code Act.
- Meet minimum capital requirement (currently USD 250,000 for foreign investors).

Sector-specific licences may also apply.

The pros of operating under the Company structure
1. A company is at law a separate person from its members or shareholders and Directors. This allows the owners of the tech-startup to competitively operate in the market.
2. A company gives the business a legal identity. The tech start-up will be able to trade and obtain licenses in its name.
3. A company can own and transfer property as a recognized legal person. The tech startup company will be able to own assets in its name.
4. A company can sue and defend cases in its name as a legal person.
5. A company can continue to exist long after its initial members and directors have expanded to other markets.
6. The company can access credit from a financial institution in its name. The Tech startup will be able to access finances from financial institutions to run its operations.
7. The company can access different opportunities such as tenders, some of which are usually limited to companies.
8. A company creates different employment opportunities, a company requires skilled personnel to run its operations.

The cons of operating a company
A company must meet several legal and regulatory compliance requirements. To comply, the company should fulfill the following obligations: file tax returns with the Uganda Revenue Authority, file returns with the Uganda Registration Services Bureau, adhere to the Personal Data Protection Laws set by the Personal Data Protection Office, comply with the anti-money laundering laws set by the Financial Intelligence Authority, remit the employees' monthly contribution to the National Social Security fund, and meet other requirements from various institutions.

Partnerships:

A tech start-up may consider establishing a Partnership in Uganda. This may be a general partnership or a limited liability partnership. A Limited Liability Partnership (LLP) under the Limited Liability Partnership Act 2010 is a body corporate with separate legal personality. All partners enjoy limited liability and are not personally liable for the debts of the LLP beyond their agreed contribution.

A general partnership does not have separate legal personality, though it may sue in the firm name under procedural law. An LLP, however, is a separate legal entity capable of owning property and suing or being sued in its own name.

CORPORATE STRUCTURES

Partnerships, CONT'D:

The pros of operating a partnership

1. The Partnership structure allows for collaborative establishment of a Firm or entity with minimal costs.
2. A Partnership can obtain some key licenses in its name.
3. A Partnership can operate an account with any Financial Institution and transact.
4. A Partnership can apply for tenders and other business opportunities therefore there is still access to some business opportunities that are open for partnerships.

The cons of operating a partnership

1. The Partnership cannot own and transfer property in its own name. Instead, the property is held by the partners in their personal capacity.
2. A Partnership cannot sue or defend a suit in its name. Therefore, a matter against the Partnership is against the individual owners.
3. The Partners in such an arrangement are personally liable for the debts, acts and omissions of the Partnership.
4. Partnerships cannot list on the stock exchange.

Sole Proprietorship:

This is the last consideration since Sole Proprietorships are registered as business names, though they are recognized in Uganda.

The pros of operating a sole proprietorship

1. The business does not have a separate legal personality.
2. The business can apply for a trade license in its name.
3. The Business can apply for tenders and other business opportunities that are available for sole proprietorships.

The cons of operating a sole proprietorship

1. The business is not a separate legal entity from its owners and the owners of the business are personally liable for the debts.
2. The business cannot own property. The property would be owned by the owners of the property.
3. The business cannot sue or defend a lawsuit. The owners of the business have the capacity to sue and defend a lawsuit.

Government efforts to promote investment in Uganda.

The Government of Uganda promotes investment (Financial Direct Investment) in Uganda through the Uganda Investment Authority (UIA). The Government has put in place strategies to create a conducive environment for investment and these include; stable electricity, piped water, good transport infrastructure, and internet connectivity, incentives such as tax holidays, identification of priority sectors for investment, regional integration, and participation in investment promotion campaigns.

The tax holidays apply to companies and not any other legal business vehicle as discussed above. Therefore, it may be most prudent to consider the Company structure.

Registration or incorporation of a company in Uganda is now done at the Uganda Registration Services Bureau through the Online Business Registration System (OBRS).

UGANDA

ENTERING THE COUNTRY

A technology startup in Uganda needs to be aware of the investment climate, laws, and policies. The Ugandan investment climate is primarily governed by several laws and compliance requirements such as company incorporation, investment licensing, tax registration, immigration licensing such as work permits, trade licensing, registration with the National Information Technology Authority, registration with the National Environment Management Authority among others. The Ugandan market economy is predominantly youthful and an ideal investment destination for Technology startups. Below are the foreign investment rules or restrictions that an intending Investor needs to be mindful of.

Legal Framework

Foreign investment in Uganda is governed by a number of laws but primarily by the Investment Code Act (ICA) Cap. 74 of the revised laws of Uganda, 2023 which establishes the Uganda Investment Authority (UIA) and the Free Zones Act, Cap. 70. The ICA requires a company intending to participate in or operate any investment activity in Uganda to be registered and apply for an investment license. The Act also stipulates that for one to qualify as a Foreign Investor, they must meet the Minimum Capital Requirement (MCR) which is capped at USD 250,000 (United States Dollars Two Hundred Fifty Thousand).

Once an investor has satisfied the MCR, such investor shall apply to the Uganda Investment Authority (UIA) for registration. The Investment Code Act provides for expedited issuance of an investment licence upon satisfaction of statutory requirements. In practice, timelines vary depending on documentation and sectoral approvals.. The requirements for registration of a foreign investor are; the company certificate of incorporation, business plan, environmental impact assessment certificate issued by the National Environmental Management Authority (NEMA), the projected number of employees, and a license granted by the business sector in which the investor intends to operate. In the case of a technology start up a certificate of compliance issued by the Uganda National Information Technology Authority (NITA – U).

Foreign Investors in Uganda are also eligible for incentives such as tax incentives and a grantee of incentives receives a certificate of the incentive granted. The Uganda Free Zones Authority established by the Free Zones Act, Cap. 70 regulates free trade zones, offering tax advantages to Investors. Free zones have attracted significant capital investments in recent years.

For one a foreign investor to qualify for incentives, they must show; that the investor meets the MCR for investment, the investment exports a minimum of 80% of the goods produced, that the investor directly employs a minimum of 60% of Ugandan citizens, 70% of the raw materials used in production are sourced locally, and that the investor introduces advanced technology or upgrades indigenous technology in Uganda.

The Investment Code Act in Uganda imposes obligations on intending foreign investors. Foreign investors are obligated to; observe and adhere to the laws of Uganda, implement the proposals in accordance with the business plan submitted, properly keep financial and accounting records of the investment, keep data relating to operations and register with the tax administration and file timely returns even in case of entitlement to tax exemptions.

UGANDA

INTELLECTUAL PROPERTY

Intellectual property rights in Uganda are administered by different laws protecting the rights of authors. The law protects Copyright and Related rights, trademarks, trade secrets, industrial designs, patent/ utility models, and geographical indications. Uganda has an agenda to promote utilization of the intellectual property system, prescribed in the National Intellectual Property Policy, 2019 and provide protection for her authors, writers, performers, artists, programmers and other copyright holders. In January 2022, Uganda acceded to four Copyright Treaties: the Berne Convention for the Protection of Literary and Artistic Works (1886), The WIPO Copyright Treaty (WCT) (1996), The WIPO Performances and Phonograms Treaty (WPPT) (1996), and the Beijing Treaty on Audiovisual Performances (2012). Accession to these four Treaties follows an earlier ratification in respect to The Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled.

Copyright and Neighbouring rights; literary, scientific and artistic intellectual works are protected by the Copy right and Neighbouring Rights Act, Cap. 222. The law protects the expressions of ideas of literal works.

An Author of works has several rights among which include reproduction rights, performing rights, adaptation rights, translation rights, assignment or licensing rights and moral rights, that is the right to be named as the author of the literal works.

Some of the protected works include but are not limited to articles, books, pamphlets, lectures, addresses, sermons, dramatic, dramatic-musical and musical works; audio-visual works and sound recording, including cinematographic works; choreographic works and pantomimes; computer programmes and electronic data and accompanying materials; works of drawing, painting, photography, architecture, lithography and tapestry; works of applied art, whether handicraft or produced on industrial scale, works of all types of designing; illustrations, sketches and three dimensional works; derivative work which by selection and arrangement of its content, constitute original work; databases, derivative works and works of a similar nature.

Duration of copyright protection; The law protects both economic and moral rights of an author in relation to protectable works. Economic rights are protected during the life of the author and fifty years after the death of the author. Economic rights of the author where the work is of joint authorship, are protected during the life of the last surviving author and fifty years after the death of the last surviving author.

Where the economic rights in a work are owned by a corporation or other body, the term of protection is fifty years from the date of the first publication of the work.

Where the work is published anonymously or under a pseudonym, the economic rights of the author are protected for a term of fifty years from the date of its first publication; but where before the expiration of the fifty years the identity of the author is known or is no longer in doubt the economic right is protected during the lifetime of the author and fifty years after the death of that author. In the case of audio-visual work, sound recording or broadcast, the economic rights of the author are protected until the expiration of fifty years commencing from the date of making the work or from the date the work is made available to the public with the consent of the author.

Computer programs are treated as literary works and protected for the life of the author plus 50 years. Where corporate ownership applies, protection runs for 50 years from first publication.

In the case of photographic work, the economic rights of the author are protected for fifty years from the date of making the work.

The moral rights of an author exist in perpetuity whether the economic rights are still protected or not and that moral right is enforceable by the author or after death his or her successors.

Commissioned works; where a person creates works in the course of employment by another person; or on commission by another person or body; then in the absence of a contract to the contrary, the copyright in respect of that work vests in the employer or the person or body.

INTELLECTUAL PROPERTY, CONT'D

Where a person creates work under the direction or control of the Government or a prescribed international body, unless agreed otherwise, the copyright in respect of the works vests in the Government or the international body.

It is noteworthy that the right only vests where the works are created within the stipulated schedule of work of an employee. The moral rights in the works made at all times remain with the actual author of the work.

Registration; Although not mandatory, copyrightable works can be registered with the Uganda Registration Services Bureau (URSB).

Trademarks; Trademarks in Uganda are protected by the Trademarks Act, Cap. 225 (TMA).

A trademark is defined as a distinctive sign that identifies certain goods or services produced or provided by an individual or a company from those of other enterprises. A Trademark may consist of any word, symbol, design, slogan, logo, sound, smell, colour, label, name, signature, letter, numeral or any combination of them and should be capable of being represented graphically.

The Trademark must be distinctive, non-descriptive and not likely to cause confusion. The Trademark owner has the exclusive rights to prevent others from using the same or confusingly similar mark.

Registration; Registration of a Trademark is mandatory with the Uganda Registration Services Bureau (URSB) at a cost of **UGX 375,000** for a local company and **USD 650** for a foreign company. However, these fees only apply where there is no opposition to registration of the mark or any alterations to the mark.

Distinctiveness; to register a Trademark to distinguish goods or services, the mark, symbol, or sign must be capable of distinguishing the goods with which the owner of the trademark is or may be connected, in the course of trade, from goods in the case of which no connection subsists.

Duration; the protection in the registration of trademarks is for a period of seven years. Initial registration lasts 7 years. Renewals are granted for successive periods of 14 years.

Principle of concurrent use; the law forbids the registration of identical or resembling trademarks. Concurrent use is when a similar mark is applied for similar goods or non-similar goods. The applicant must demonstrate either that he has been using the mark in good faith or that he was unaware of the prior registered trademark to establish honest concurrent use. Additionally, it is the applicant's responsibility to demonstrate that relevant customers connect their mark to their good or service.

The **TMA** vests power in a Registrar of trademarks or Court to permit the registration by more than one owner in the case of honest concurrent use.

Industrial Designs: An industrial design is defined as the ornamental or aesthetic aspect of a useful article (product). The design may consist of three-dimensional features, such as the shape or surface of an article, or two – dimensional features, such as patterns, lines or color.

An industrial design in simple terms is the appearance of a product, it's what makes a product attractive and appealing to a consumer's eye. Industrial designs are applied to a wide variety of products of industry and handicraft items: from packages and containers to furnishing and household goods, from lighting equipment to jewelry, and from electronic devices to textiles. Industrial designs may also apply to graphic symbols and graphical user interfaces (GUI)
Industrial design rights are granted for Five (5) years renewable for two more consecutive five-year term. Industrial design protection does not protect the technical features of the product.

For a design to be protected, it must be:

- **Novel** - there is no identical design available to the public before the date of filing, or application for registration.
- **Original** - must be independently created by designer, and not a copy or imitation of existing designs.

Industrial Designs Application Procedure
The applicant fills an application form, files a drawing or other graphical representation of the product, a description identifying features that constitute the design and receipt of payment of applicable fees.

Costs: For a local company the cost for registration is **UGX 170,000** while a foreign company pays **USD 370**.

INTELLECTUAL PROPERTY, CONT'D

Patents and Utility Models

Patents: A patent is an exclusive right granted by the Government for an invention. Protected inventions can range from simple things like a safety pin to sophisticated items like processing machines.
An invention that is Novel, Inventive and is industrially applicable may be granted using a Patent.

Duration of protection: 20 years. For the patent to remain in force the patent holder is required to pay an annual maintenance fee.

Requirements for protection.

- **Novelty –** The invention/innovation should not be disclosed in any publication anywhere.
- **Inventive step** - The new product or process should not be obvious to a person skilled in the art.
- **Industrial Application** - The invention can be made or used in some kind of industry.

Rights of a Utility Model/Patent Holder; Decide who may or may not exploit the protected invention. Permit/ license the use of the invention on mutually agreed terms or sell the invention outright.

Utility Models: A Utility Model is an exclusive right granted by the Government for an innovation/invention, which is either a product or process that offers a new technical solution to a problem. A product or process that is new and is useful can be protected using this system. Their term of protection is 10 years. Registration for a utility model is simple and fast and gives the holder the right to exclude others from exploiting the protected innovation/invention.

Utility Models provide protection for incremental improvements to products and processes, and it is very relevant for SMEs. For Example: Printing- roller cleaning system, fruit sorting machine, simple bottle cleaning machine etc.

Costs; Local Company – UGX 340,000 and Foreign Company – **USD 450**.

Trade Secrets: Trade secrets in Uganda are governed by the Trade Secrets Protection Act, Cap. 80 of the revised laws of Uganda, 2023. A trade secret is information including but not limited to a formula, pattern, compilation, program, method, technique, or process, or information contained or embodied in a product, device or mechanism which;

1. is, or may be used in a trade or business;
2. is not generally known in that trade or business;
3. has economic value from not being generally known; and
4. is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The Trade Secrets Act protects information lawfully within a holder's control from being disclosed to or acquired, or used by others without his or her consent, in a manner contrary to honest commercial practice.

The information being protected must;

1. be a secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
2. have commercial value;

Dispute Resolution; Intellectual Property disputes in Uganda are raised to URSB (a Registrar) as a Quasi-Judicial body and can later proceed to Court. Uganda has a Commercial Court which is a specialised Court to handle Intellectual Property disputes.

UGANDA

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STARTUP LEGAL PLAYBOOK

DATA PROTECTION/PRIVACY

Data Protection and Privacy in Uganda is majorly governed by the Data Protection and Privacy Act, Cap. 97 ("the Act") and Data Protection and Privacy Regulations, 2021 which operationalize provisions in Act. The Act protects the privacy of individuals and of personal data by regulating the collection and processing of personal information.

It is worth noting that Uganda adopted the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention) in 2014. However, this convention has not been ratified, and therefore, it has no force of law.

The Act outlines seven (7) primary principles of data protection and privacy. These principles include being accountable to data subjects, legal and fair collection of data, retaining personal data for the authorized period, ensuring quality, transparency and participation of the data subject in the collection and processing of data, and observing the security of the data.

The National Information Technology Authority establishes the Authority along with a Data Protection Office and an institutional Data Protection Officer. The primary responsibility of the Authority is to ensure that data controllers, processors, and collectors comply with the principles outlined in the Act. The Data Protection Office is responsible for enforcing the Act, while the designated Data Protection Officer in each institution or company is in charge of ensuring compliance with the Act.

A technology startup would have the following obligations as a data collector, controller or processor;

Register with the data protection office in compliance with the law and annually renew registration. To register, a company must pay Ushs. 100,000 to Uganda Revenue Authority and fill out a form which is available online.

Establish a privacy governance structure: Establish and maintain a comprehensive data protection compliance program which should include:

Designating a Data Protection Officer (DPO) as guided by the Data Protection and Privacy Regulations. Publish the contact details of the DPO as part of the privacy notice/policy/statement. Developing an internal-facing Data Protection Policy.

Establishing reporting lines and regular communication between the Data Protection Officer, internal and external stakeholders.

Ensure personal data is processed lawfully: A data controller must have a lawful basis for collecting and processing personal data. Processing is lawful if one of the following applies:

Developing and implementing personal data policies on retention and data security breach response and management. This will enable the data controller to immediately notify the Personal Data Protection Office whenever data security breaches occur.

Data in Uganda is legally collected in the following ways; consent of the data subject, where the collection, processing is authorized or required by law or where data collection and processing is necessary for performance of public duty, performance of a contract, security purposes, prevention, detection, investigation or prosecution of an offence or breach of law and for medical purposes.

The Act regulates the processing of sensitive personal data (including religious beliefs, political opinions, sexual life, financial information) and permits processing only under stricter lawful conditions.

Dispute Resolution: Disputes related to Data Protection and Privacy laws are handled initially by the Data Protection Office. In Uganda, data protection and privacy disputes are heard by a specialized court (High Court Civil Division).

UGANDA

ARTIFICIAL INTELLIGENCE

There is no specific national law or regulation for AI in Uganda today. However, the general restrictions on Data Protection, Contractual and Tortious Liability may apply.

Data Protection: AI technologies require vast amounts of data to predict patterns and automate systems. This endless need for data may lead to the collection, processing and collection of vast amounts of data. This clearly brings AI start-ups which collect, process and control data in Uganda under the ambits of the Data Protection and Privacy Act Cap. 97 (DPPA).

Contractual and Tortious Liability; AI involves machines taking on tasks ordinarily done by humans. It's no doubt that humans can be held liable for their actions. However, can machines be held liable for their actions? Under Ugandan law, machines are not legal persons and cannot, therefore, sue or be sued. AI machines/systems ought to be products/services which are fit for purpose. Where an AI tool or system causes loss or damage to a consumer, the developer or controller of such an AI tool or system could be liable if they fail to show that reasonable care was applied while creating the tool or system. Therefore, startups which develop, control, sell and use AI related tools or services must exercise reasonable care to prevent loss or damage to consumers in order to avoid liability which may be attributed to them.

Uganda's National Digital Transformation Roadmap recognizes the importance of emerging technologies, and the Government has made commitments to support systematic experimentation. The Government of Uganda's digital transformation roadmap commits to embrace Artificial Intelligence and data analytics. Uganda has potential to harness the power of data to drive evidence-based policy making, optimize resource allocation, and improve service delivery. The roadmap will prioritize data governance, privacy, and security to ensure the responsible and ethical use of available data for processing and funds have been allocated towards the harnessing of data.

EMPLOYEES/CONTRACTORS

The primary legislation governing employment in Uganda is the Employment Act, Cap. 226. It sets out the basic rights and obligations of both employers and employees. The other important Employment Legislation are; Worker's compensation Act, Cap. 233, Occupational Health and Safety Act, Cap. 231, Labour (Dispute and Arbitration) Act, Cap. 227, Labour Unions Act, Cap. 228, National Social Security Fund Act, Cap. 230 as amended, Employment Regulations SI 219-1, Employment (Employment of Children) Regulations.

Employment contracts: The Employment Act, Cap. 226 provides for the parameters of an Employment Contract and states that the Contract can either be written or oral. It is advisable to have written employment contracts in place, including details such as job descriptions, terms and conditions of employment, compensation, working hours, any applicable benefits or allowances, duration of employment and owner of commissioned works. The minimum age for hiring employees in Uganda is 16 years, and the law further provides for guidelines on how to handle employment of young persons.

Termination of employees: Termination must comply with statutory notice requirements and principles of procedural fairness. Employers must ensure lawful justification and due process to avoid claims of unfair termination.

Termination of employment notice periods: The Employment Act specifies the minimum notice period for termination of an Employment Contract based on the duration of employment. For example, an employee who has been with an employer for over six months must receive a minimum notice period of one month.

Severance pay: Severance pay is payable in specific circumstances under Section 87 of the Employment Act, including redundancy and insolvency. It is not automatically payable in every termination.

Statutory benefits: Employers are required to provide certain benefits to employees, including annual leave, sick leave, maternity leave, paternity leave, and public holidays. It is crucial to be aware of and comply with these statutory requirements.

EMPLOYEES/CONTRACTORS, CONT'D

Tax and social security obligations: Employers must deduct and remit income tax and social security contributions from an employee's salary. It is essential to understand the relevant tax and social security laws to ensure compliance.

Work permits: Foreign entities engaging employees or contractors in Uganda may need to obtain work permits for non-Ugandan employees, depending on the nature and duration of their work. It is advisable to consult with relevant immigration authorities to ensure compliance.

Dispute Resolution: At first instance, Uganda's Labour disputes are refered to a Labour Officer who has power to adjudicate, and/or refer the case to the Industrial Court, which is a specialised Court that handles Labour related disputes. Where there are any arrangements for settlement by conciliation or arbitration in a trade or industry, between a labour union one or more employers or between one or more labour unions and one or more employers' organisations, a Labour Officer must ensure that the parties follow the procedures for settling the dispute as laid out in the conciliation or arbitration agreement, which apply to the dispute.

Workers Compensation: An employer is liable to pay compensation for personal injury by accident arising out of and in the course of a worker's employment. The employer shall not be liable in respect of an injury which does not either; result in permanent incapacity; or incapacitate the worker for at least three consecutive days from earning full wages where he or she is employed.

Is there a work for hire regime in Uganda?

Work for hire covers the legal ownership of copyrighted material. When a business contracts an individual to create something valuable, and they give up the right to own the creation.
In Uganda, there is no specific statutory provision for a work for hire regime like in some other jurisdictions. The concept of work for hire typically involves an employer or client commissioning work from an independent contractor or employee, with the employer/client obtaining full ownership of the work.

Under Ugandan copyright law, the general principle is that the creator of a work is the original owner of the copyright. However, there are exceptions where the copyright ownership may be determined differently, such as in cases of employment. In the absence of a specific work for hire provision, the ownership of copyright in works created by employees or contractors in Uganda is typically governed by contract or agreement. Employers can establish ownership of the copyright through properly drafted employment contracts or agreements that assign ownership of works created within the scope of employment to the employer.

Foreign entities engaging employees or contractors in Uganda need to have clear contractual agreements that address the ownership and assignment of copyright in any works created during the period of engagement. This helps establish the intended ownership rights and can avoid potential disputes over copyright ownership in the future. Consulting with legal experts in Uganda to ensure compliance with copyright laws and drafting appropriate agreements is recommended.

CONSUMER PROTECTION

Currently, Uganda does not have a comprehensive legal regime on consumer protection that guarantees consumer rights and obligations. Generally, there is fragmentation in the legal and policy framework on aspects related to promotion of fair competition and consumer protection. A number of sub-sectors such as; financial services, communication, health, trade, and professional services have some laws that govern some aspects of competition; but these are absent in most sectors.

The Government of Uganda through the Ministry of Trade adopted a National Competition Policy which aims at addressing the fragmentation and gaps within the different sectors.

The Policy is guided by principles among which are; Creating equal opportunities for participation in trade, provision of an enabling environment for private sector growth, development through fair competition, and Consumer Protection, among others.

Uganda is a member state of the East African Community (EAC) and the Common Market for East and Southern Africa (COMESA). The East African Legislative Assembly enacted an East African Community Competition Act in 2006 and its Regulations in 2009. COMESA also enacted the Competition Rules and Regulations in 2004 to govern operations and conduct within the common market on competition-related matters. The Competition policies and regulations at these regional economic blocs apply to all Member State's economic activities and sectors having cross border effects.

The Information and Technology sub-sector is regulated by the National Information Technology Authority established under the National Information Technology Authority Act, 200. Among other functions, the Authority is mandated to set standards in the sector, arbitrate disputes arising between suppliers of information technology and consumers and to protect and promote the interests of consumers or users of information technology services or solutions.

The Electronic Signatures Act, 98; Electronic Transactions Act, 99, and Computer Misuse Act, 96 aim to protect critical national information infrastructure, encourage safe online business, and increase the country's competitiveness to attract foreign investment. The laws have provisions that regulate the unauthorized use or interception of computer services and disclosure of access code or private information, electronic fraud, cyber harassment, cyber stalking, and invasion of privacy.

In general, the information and technology industry, along with the telecommunications sector, has some provisions in place to protect consumers. However, these provisions do not guarantee that consumers will receive compensation or redress at the company level. If a consumer has a complaint, they must go through a court procedure to seek resolution. Additionally, the laws do not establish clear consumer rights or awareness mechanisms.

Dispute Resolution; Uganda has a specialized Court (Commercial Court) were disputes of a commercial nature arising out of uncompetitive practices by merchants or manufacturers are raised.

UGANDA

TERMS OF SERVICE

Online transactions in Uganda are governed by the Electronic Transactions Act and the different regulations set by the National Information Technology Authority.

Online Terms of Service requirements: Service providers are required to provide detailed information regarding the product or service, their identity and contact details in their terms of service. The providers are also required to include timelines and options to allow consumers to check and correct their order and withdraw from the transaction before placing the order.

The Electronic Transactions Act requires transparency in online contracting and consumer information disclosures. Cancellation rights depend on the contractual framework and sector-specific regulation. Following a cancellation, a consumer is obliged to return the goods or to stop using the service, and a seller is obliged to reimburse the consumer. Consumers may also complain to the competent regulator, NITA-U, where a service provider does not comply with these obligations. A consumer is also entitled to cancel a transaction after the receipt of the goods or the services within seven days, without the need to state any reason. In case of a cancellation, a consumer can only be charged for the direct costs of the return of the goods. The seller is ordered to reimburse the consumer within 30 days when a payment has already been made.

Finally, sellers/ service providers are required to deliver goods within 30 days following an order. Where a delivery cannot be made within 30 days, a consumer is entitled to cancel the transaction.

Territorial application

The Electronic Transactions Act indicates that it applies to any person, irrespective of the person's nationality or citizenship, or whether the person is inside or outside Uganda.

TAX/FUNDING

Persons/ Entities intending to do business in Uganda must register for taxes with the Uganda Revenue Authority. The tax administration system is primarily online to ensure efficiency and effectiveness in tax collection. Tax residents are taxed on their worldwide income while non-tax residents are only taxed on incomes sourced from Uganda.

Uganda's tax regime is categorized into direct and indirect taxes. The direct taxes include Withholding Tax, Pay As Your Earn, Corporate tax while indirect taxes include Value Added Tax (VAT), Excise Duty (for an entity dealing in excisable goods/ services), Stamp duty and Customs duty (import and export levies).

The taxes applicable to a startup in Uganda include Income Tax, Value Added Tax, Excise duty (on specific goods and services), Digital Service Tax.

The Income tax regime levies taxes on Corporations, Partnerships, Trusts, Retirement Funds and Individuals. Corporations are generally taxed at a rate of 30% and individuals are taxed at progressive rates ranging from 0% to 40% on their income depending on the tax bracket within which one falls.

The Income Tax regime also imposes a withholding tax on individuals and corporations, which is withheld at source at the time of payment. This tax is imposed on payments, such as employment income, payments on dividends and interests, royalties, professional fees etc derived by the residents and non-resident persons. The withholding tax rates range between 0% to 20% depending on the nature of the supplies and residence of the payee.

Value Added Tax is charged on supplies at a standard rate of 18% except for goods and services categorized as exempt or zero- rated. Digital Services Tax is applicable to any non-resident person providing digital services in Uganda at 5%. Digital taxation provisions are subject to annual amendment under the Finance Act and should be verified for the current fiscal year.

Employers are obliged to deduct 5% from the employees' salary for the National Social Security Fund (NSSF) and contribute an additional 10% towards the same. It is important to note that this obligation applies to all employers, regardless of the number of employees they have. They are also required to deduct Local Services Tax (LST) from the employee's salary.

Funding

Government of Uganda is still the biggest funder for technological development in Uganda and committed to Digital Transformation through its Digital Transformation Roadmap and investment of USD 300 Million Dollars funding from the World Bank in the National Backbone aimed at ensuring access to the internet at every point in the Country. https://development.finance.go.ug/knowledge-centre-reports/digital-transformation-roadmap-fy202324-202728-0

The Government of Uganda through the National Digital Transformation Road map has committed to allocate significant investments and secure funding from public and private sources to support the implementation of digital initiatives. This will involve creating venture capital funds, providing incentives for digital startups, and attracting foreign direct investment in the digital sector. https://development.finance.go.ug/knowledge-centre-reports/digital-transformation-roadmap-fy202324-202728-0

Funding under the road map has been split into the Short (0 – 1 year); Medium(Year 2 – Year 3) and Long term (Year 3 – Year 5) to support among other things; Consultancy for the enhancement of the ugHUB to facilitate integration of the single registries, Expand National Backbone Infrastructure (NBI), Enhance Government Cloud by enhancing the hosting capacity as a centralized shared service to match the growth in e-service rollout, Consultancy for Rationalization of broadband policies and establish a single policy source.

TAX/FUNDING, CONT'D

Government Agenda to promote technovation and development

The Government of Uganda has a number of interventions to promote innovation, investment and technology development among which include;

National Development Plan III; Innovation, Technology Development and Transfer Project is a central program out of the Eighteen NDPIII national level programs aiming to enhance innovation and technology development. To achieve this the Government of Uganda has adopted a National ICT policy and increased funding at an average of 20% which accounts for over UGX 500 billion per year for the last 6 years. https://www.npa.go.ug/wp-content/uploads/2023/03/NDPIII-Finale_Compressed.pdf

https://www.finance.go.ug/

The Science, Technology and Innovation Policy (STIP) Reviews in line with the NDP III by UNCTAD aim to contribute to the development of national capacities in this field in order that national science, technology and innovation plans and programs make an effective contribution to development strategies. The Government has heavily invested in Uganda's Vision 2040; The Government has made commitments to accelerate national digital transformation and create opportunities for youth employment through innovations initiatives by 2040.

Through statutory bodies such as the Uganda Communications Commission Government has funded the Rural Communications Development Fund (RCDF) now known as the Uganda Communications Universal Service and Access Fund (UCUSAF). Over time, the Uganda Communications Act Cap. 103 of the revised laws of Uganda, 2023, has maintained the Fund which remains an integral part of the legislation. The project is anchored in four strategic themes: Access, Adoption and Usage, Value Creation, and Cooperation. These themes are supported by five strategic objectives, resulting in: Increased Broadband Access, Enhanced Usage of Digital Devices and Services, Promotion of ICT Applications and Services, Facilitating Knowledge Informative Decision-Making and Enhanced Multi-Sector Collaboration. While UCUSAF operates as a semi-autonomous entity, it functions as a department within the UCC. https://www.ucc.co.ug/

The National Social Security Fund in Uganda, a statutory body established by the National Social Security Fund Act, Cap. 230 is a major funder of technology development and advancement through its high innovator fund in partnership with Mastercard. The initiative has seen a number of entities start- up and run businesses. https://www.nssfug.org/

However, the private sector is playing a major role in funding technological advancement in Uganda. Funders such as the Visa through its Visa Foundation launched the **Equitable Access Initiative**, a five-year, $200 million strategic commitment to support gender diverse and inclusive Small and Medium Businesses around the world to which Uganda is a beneficiary. https://africa.visa.com/en_MW/about-visa/visa-foundation.html

The Financial Sector Deepening Uganda (FSD) a Non-Government entity funded by Mastercard and the Bill Gates Foundation, has invested heavily in the financial technology space in research, innovation and boosting private technology businesses. https://fsduganda.or.ug/

Foreign Direct Investment into the technology space in Uganda through Venture capital players such as Goodwell Investments, International Trade Centre; has bolstered capacity building and international business development support for startups; partnerships with local tech hubs to strengthen the business ecosystem; and coordination with Government Ministries and Agencies to improve the policy environment.

WHAT ELSE?

E – Government; The Government of Uganda has committed to having all its operations executed electronically/ turn to an e- Government. All major Government operations are now electronically executed. This has necessitated increase of broadband/ internet hence the **National Broadband Policy** to emphasize the role of broadband internet in the socio-economic transformation process and digitization in every sector as a way of conducting business with the use of high-speed, reliable (robust), and universal internet connectivity, creating opportunities for the Youth and ease of Foreign Investment.

Financial Technology in Uganda

The Financial Technology landscape in Uganda is fast growing sector attracting a lot of private investment which has seen most of the entities turn from mobile wallets to neobanks. In the payments space, mobile money has emerged as the dominant ecosystem in Uganda, with a range of players including aggregators, telecoms, and banks offering mobile wallet solutions.

Additionally, FinTechs in Uganda have also made significant strides in savings and lending, catering to niche markets such as asset lending, solar energy, agro-business, micro-loans, and savings. Leveraging their understanding of traditional Ugandan SACCOs and microfinance structures, these FinTech's offer digital transformation solutions to enhance financial inclusion.

It is worth noting that Bank of Uganda is a regulator and key player in the financial technology space and has formulated the National e- payment strategy aimed at digital financial growth and promoting infrastructure development and interoperability through the National switch.



UKRAINE

CONTRIBUTORS

UKRAINE
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UKRAINE

LEGAL FOUNDATIONS

The legal system of Ukraine is based on civil law, characterised by codified laws, including the Constitution, statutes, and regulations in public and private law:

- **Public law** governs relationships between individuals and the state, addressing various matters such as trade licence requirements, the conscription of citizens to the army, etc;
- **Private law** covers relationships between private individuals and entities or other individuals, addressing matters such as contracts, employment, e-commerce, family matters, etc.

Concerning its jurisdictional structure, Ukraine functions as a unitary state, and its administrative-territorial arrangement comprises the subsequent levels:

National Level:

- **The Constitution of Ukraine** holds the highest legal force among the normative legal acts in Ukraine;
- **Ratified international treaties** become an integral part of Ukrainian law and generally supersede national legislation;
- **Laws** are adopted by the Ukrainian Parliament (Verkhovna Rada) in the form of a single law (e.g., the Law on the Media) or codes that include a full range of norms (e.g., the Civil Code of Ukraine, the Tax Code of Ukraine);
- **Regulatory acts of the President of Ukraine, the Government, and the Parliament,** as well as those of other public authorities with nationwide applicability, typically clarify the provisions of the above-mentioned legal acts and detail the mechanism of their implementation.

At the local level, legal parameters can be defined within specific localities by regional administrations and local self-government bodies.

Although court precedent is not officially recognised as an official source of law, an exception is made for decisions by the European Court of Human Rights, which Ukrainian courts are obliged to treat as a source of law. Moreover, rulings by the Supreme Court regarding the interpretation of specific legal provisions can be binding on Ukraine's public authorities and should be considered by the courts of lower instances.

UKRAINE

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CORPORATE STRUCTURES

The main options available to start-ups looking to establish a corporate presence in Ukraine are: (1) limited liability company (LLC); (2) joint stock company (JSC); and (3) representative office (branch).

In practice, the most effective solutions for start-ups in almost all cases are a limited liability company (LLC), or to work without a corporate presence as a private entrepreneur (PE; aka 'FOP'). The latter option is commonly chosen as a starting point for solo founders with a small team and turnover. If the start-up has several founders, is aimed at engagement of investor, and has valuable IP assets, an LLC is the most preferable choice.

	LLC	**PE**
Legal identity	Legal entity	Individual with specific entrepreneur status
Registration	Mandatory in the state registry	
Fees	Free of charge	
Timing	One business day (BD) on filing documents	
Where to apply?	State registrars, including public and private notaries	
Online registration	Formally available but not common; normally via a registrar	Yes
Ownership	One or several (unlimited number) of participants	Individual
Charter capital	Required (no minimum capitalisation requirement)	N/A
Constituent documents	Articles of association	N/A
Management	• general meeting of participants, • executive body (a sole director or a management board), • other governing bodies (e.g., supervisory board (possible but not common))	Individually by PE
Engagement of people	Employees, contractors (PEs), or gig-contractors (under special regime for IT industry called Diia City)	Employees or other contractors (PEs)
Eligibility for Diia City *Diia City regime is a special tax and legal regime of the IT industry	Yes (subject to eligibility requirements)	No
Liability	Shareholders (participants) are liable for the company's debts and liabilities only to the value of their contributions to the charter capital	Acts on his/her own behalf and is fully liable for his/her obligations
Sale of business/engagement of a new co-owner	Sale of shares (participatory interest in the company) or assets	Only sale of assets (employees, IP, tangible assets)
Close of business	May involve a lengthy liquidation process	Relatively easy liquidation

UKRAINE

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STARTUP LEGAL PLAYBOOK

ENTERING THE COUNTRY

Under Ukrainian law, any value injected by foreign investors into an investment target to generate profit or to achieve social goals is considered a foreign investment. Foreign investors in Ukraine generally enjoy the same treatment as domestic investors, with some exceptions. Depending on the business sector, specific rules may apply (e.g. the fintech sector might require licensing in Ukraine, while defence companies could be subject to distinct export control and internal regulations). It is essential to assess these on a case-by-case basis. Ukraine, in general, offers an advantageous environment for foreign investments.

INTELLECTUAL PROPERTY

Trade secrets

What is protectable? Legal protection can be granted to technical, organisational, commercial and other information that is confidential and of commercial value.

How to protect? Companies must implement suitable non-disclosure measures to safeguard information, including marking data as trade secrets.

Duration of protection: Extends as long as adequate measures are implemented, and the information retains commercial value, thereby invoking trade secret protection.

Copyright and related rights

What is protectable? Any work of authorship, including musical, literary and audio-visual works, as well as and database or software, is protected by copyright. Copyright protection does not apply to ideas, theories, principles, methods, procedures, processes, systems, conceptions and discoveries.

How to protect? Copyright protection arises automatically from the moment the work is created in a fixed form. No registration, filing or other formalities are necessary in Ukraine.

Duration of protection: Protection lasts for the life of the author plus 70 years.

Trademarks

What is protectable? A trademark can consist of any words (other than those prohibited by law), letters, numerals, patterns, colours, or a combination of verbal and graphic elements.

How to protect? A trademark generally enjoys legal protection in Ukraine if it is registered. To register a trademark, the company must file an application and supporting documents with the Ukrainian Trademark Office. Trademark applications in Ukraine are subject to formal and substantive examination. In practice, it takes an average of 18 months to two years to obtain a trademark registration in Ukraine.

Duration of protection: A trademark registration certificate is valid for ten years from the day the application is filed and may be renewed every ten years by the trademark owner.

Madrid System: Ukraine is a signatory to Madrid Agreement Concerning the International Registration of Trademarks, as well as certain other agreements, which allows trademark protection to be obtained at the international level, on the Madrid System.

INTELLECTUAL PROPERTY, CONT'D

Patents (inventions and utility models)

What is protectable? Inventions and utility models can be legally protected in Ukraine if they do not contradict the public order, the principles of humanity and morality, and are patentable. The following inventions or utility models are patentable:

- products such as devices, substances, strains and cell cultures of a plant or an animal;
- processes (methods), as well as new applications of known products or processes.

How to protect? Inventions and utility models generally enjoy legal protection in Ukraine if registered. To be granted patent protection, an invention must meet the requirements of: (i) novelty; (ii) industrial applicability; and (iii) non-obviousness. A utility model must meet only the first two requirements. The Ukrainian patent application undergoes a substantive examination. In practice, it may take an average of three to five years from filing to grant a patent in Ukraine.

Duration of protection: Patent protection begins on the day the grant of the patent is published, and it lasts 20 years from the application filing date for inventions and ten years from the application filing date for utility models.

Industrial designs

What is protectable? Industrial or craft product or parts of one can be protected as a design.

How to protect? An industrial design can obtain legal protection as a registered industrial design or an unregistered industrial design if it is made public under a special procedure.

Duration of protection: The term of non-registered protection is three years, for registered industrial design is five years and can be renewed five times for subsequent five-year periods by paying a renewal fee. The maximum term of protection is therefore 25 years.

DATA PROTECTION/PRIVACY

In Ukraine, the main legal act that governs processing (collection, use, storage, etc.) of personal data is the Law of Ukraine on Personal Data Protection No 2297-VI dated 1 June 2010 (link, "PDP Law").

The PDP Law regulates personal data processing, which is broadly defined as any action or a combination of actions with personal data, including collection, storage, usage, transfer etc. It applies to all personal data processed in Ukraine irrespective of whether it is processed by a foreign or a Ukrainian entity, as well to data transfers from Ukraine.

Ukraine is in the process of modernising its personal data protection framework. In November 2024, the Ukrainian Parliament adopted in the first reading Draft Law No. 8153 "On Personal Data Protection" (link), which aims to align Ukrainian legislation more closely with the EU GDPR. As of today, the draft law has not yet been finally adopted and the current PDP Law remains in force.

Registration/notification/authorisation: Grounds for processing personal data in Ukraine are similar to those in the EU, including legitimate interest and contract execution, with data subject consent being the most common. Specific processing rules may apply in certain sectors, such as the banking and medical industries.

In Ukraine, there are two distinct categories of data: sensitive data and high-risk data (comprising all sensitive data along with information such as an individual's travel routes, genetic data, etc.). Data controllers and processors processing high-risk data, however, must notify the Ukrainian Parliament Commissioner for Human Rights (data protection authority) within 30 days of the commencement of processing this data.

Main obligations and processing requirements: Data controllers must comply with the following obligations:

- Personal data must be processed openly and transparently.
- The means of personal data processing must correspond to the purpose of the processing.
- Personal data must be protected from accidental loss, destruction, or unauthorised processing and access.

Data subject rights: The PDP Law grants data subjects a broad scope of rights, including the right to:

- Submit an objection to the processing of their personal data.
- Access their own personal data.
- Define certain restrictions and reservations regarding any element of their data's processing.
- Submit a justified request to rectify or delete personal data by any data controller or processor, if the data is processed illegally or is inaccurate in any respect.
- Obtain information on the terms of third party access to their personal data, including information about third parties to whom their personal data are transferred.
- Revoke consent to data processing.

Processing by third parties: Access to personal data (and thus, further processing) by a third party can only be granted under the terms of the consent by the personal data subject and only provided that such third party agrees to comply with the PDP Law and is in fact capable of ensuring such compliance.

DATA PROTECTION/PRIVACY, CONT'D

Processing by third parties: Access to personal data (and thus, further processing) by a third party can only be granted under the terms of the consent by the personal data subject and only provided that such third party agrees to comply with the PDP Law and is in fact capable of ensuring such compliance.

Transfers out of the country: Under a general rule, personal data may be transferred to countries that provide an adequate level of personal data protection.

It is assumed that the following countries provide such level of protection:

- European Economic Area (EEA) member states.
- Countries ratifying the Strasbourg Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data 1981 (Strasbourg Data Processing Convention).

Beyond these countries, cross-border personal data transfers are possible if one of the following conditions is satisfied:

- The data subject grants express consent to the transfer.
- The data controller and the data subject need to enter into or perform an agreement for the benefit of the data subject.
- The data transfer is necessary to protect the vital interests of the data subject.
- The data transfer is necessary to protect the public interest or pursue legal remedies.
- The data controller has provided relevant guarantees to protect the data subject's privacy.

Intragroup cross-border transfers of personal data between different legal entities belonging to the same corporate group are subject to the foregoing rules.

Martial law: During martial law in Ukraine (in effect from 24 February 2022, to 4 May 2026, with the possibility of further extension), the transfer of personal data to foreign entities for the provision of medical care or rehabilitation assistance using telemedicine may be carried out with the protection of personal data in accordance with the legislation of the country in which the right to practice medicine is granted (except for citizens of the Russian Federation and the Republic of Belarus).

Data Protection Officer: The processing of high-risk data requires the prior appointment of a data protection officer. There are no requirements regarding qualifications or skills of this person, and the PDP Law contains only several functions which are to be performed by the officer. Thus, the function of a data protection officer may be combined with any other function. In practice, this is often performed by in-house lawyers.

Security: All participants of data processing relationships, including data controllers and data processors, must ensure that certain personal data is protected from accidental loss, destruction, unauthorised processing and access.

The PDP Law also sets out certain requirements on use of personal data by the data controller's employees, including the use of data only in light of and to the extent provided by their professional duties, a prohibition on the disclosure of any personal data (except for cases provided by law), etc. Those data controllers that process high-risk data must appoint a data protection officer.

DATA PROTECTION/PRIVACY, CONT'D

Breach notification: The PDP Law does not require the notification of personal data security breaches, but data subjects should be informed about any amendment, deletion, or destruction of their personal data within ten business days. The data subject's consent to data processing may include an additional notification obligation, to be verified on a case-by-case basis.

ARTIFICIAL INTELLIGENCE

Currently, there is no legislation regulating artificial intelligence issues in Ukraine. The development and use of AI systems are subject to the general provisions of applicable legislation, in particular in the areas of personal data protection, cybersecurity, intellectual property, and cloud services.

Ukraine is developing a dedicated regulatory framework for artificial intelligence and has adopted several strategic and soft law instruments, including:

- **The Concept for the Development of Artificial Intelligence in Ukraine** and the related action plan, which define priority areas for AI development and explicitly recognise the need to update the legal framework governing AI;
- **The Roadmap for the Regulation of Artificial Intelligence in Ukraine**, which outlines a phased, bottom up approach to AI regulation, emphasises future alignment with the EU AI Act, and aims to provide businesses with practical tools to prepare for forthcoming binding requirements;
- **Non binding recommendations issued by the Ministry of Digital Transformation** on the use of artificial intelligence, which may apply in specific sectors (for example, for legal professionals and educational institutions);
- **Methodological and guidance materials** developed by the Ukrainian Parliament Commissioner for Human Rights (Ombudsman), the Ministry of Digital Transformation and with the support of EU4DigitalUA, focusing on practical human rights and personal data protection considerations in the context of AI. These materials are advisory in nature and do not have binding legal force

However, Strategic policy documents declare the objective of adopting a standalone law on artificial intelligence, with the submission of a draft bill planned for the fourth quarter of 2026.

UKRAINE

EMPLOYEES/CONTRACTORS

In Ukraine, IT companies commonly engage professional personnel (software developers) as either independent contractors or in rare cases as employees. If the company is a resident of Diia City, it has the option to engage people as gig-specialists.

		Employees	Independent contractors	Gig-contractors
Description		Engagement under employment agreement (contract)	Engagement as formally independent from the company service providers under services agreements	Mix combining the features of the independent contractor agreement with certain "employment-like" social benefits and protections
Payment	**Remuneration**	As agreed under the employment agreement, but in any event at least the minimum statutory wage (as of 1 January 2026, approx. 199 USD per month).	Independent contractors are legally considered to be third-party independent service providers. The law does not set specific rules for independent contractors regarding pay and benefits, and the parties are able to agree this in the services agreement.	As agreed under the gig-contract (no minimum level requirements)
	Extra payment	For work at weekends, nightwork, overtime, during the public holiday, etc		As agreed under the gig-contract
	Mandatory allowances	For medical (sick) leave, maternity leave or other types of leave provided by law		For medical (sick) leave, maternity leave or other types of leave if agreed in the gig-contract
	Discretionary bonuses	For medical (sick) leave, maternity leave or other types of leave provided by law		As agreed under the gig-contract
	Medical/ Health insurance benefits	The employer makes payments of unified social contributions (USC) for the employee, which also include a payment for state medical/health insurance. Private medical/health insurance is not mandatory.		Same as for employees
	Pension	In Ukraine, the pension age is 60 for both women and men. The employer pays regular USC payments for the employee of 22% of the gross salary subject to certain caps, which also includes a payment for the state pension allowance. Private pension provision is not mandatory.		Same as for employees

EMPLOYEES/CONTRACTORS, CONT'D

	Employees	Independent contractors	Gig-contractors
Advantages	Engagement under employment agreement (contract)	Cost effective (in terms of taxation) Flexibility of contractual terms	Combines the benefits of both options, including the absence of legal risks of requalification, cost effectiveness, and flexibility
Pitfalls	High costs (tax driven) Outdated, rigid and very employee-protective labour law regime	Grey zone in terms of taxes, risk of requalification into employment relations and associated liability	Only available to the residents of Diia City
Grounds for termination	• Mutual agreement; • Employee's decision; • Staff redundancy; • An employee's systematic breaching of their duties; • Failure of probation period or insufficient qualifications; • Recruitment by the army or mobilisation; • Single material breach of job duties; • An employee's unjustified absence from the workplace for more than three consecutive hours during one day; • In certain other cases.	As agreed under the agreement	• Mutual agreement; • End of fixed term; • Loss of Diia City resident status; • Gig-contractor`s decision; • Company's initiative; • Other grounds under gig-contract.

No work for hire in Ukraine: Personal non-proprietary IP rights are owned by the employee/gig-contractor/independent contractor who creates the respective object (moral rights are non-transferrable).

Proprietary IP rights created by a gig-contractor are owned by the company unless otherwise provided in the contract. Proprietary IP rights to other IP object created by employee/independent contractor are owned jointly by the company and employee/independent contractor unless otherwise provided in the agreement.

UKRAINE

CONSUMER PROTECTION

Legislation framework: Consumer protection in Ukraine is regulated in the Civil Code, Law No. 675-VIII On E-commerce and Law No. 1023-XII On Consumer Rights Protection (which will be replaced after martial law). These laws regulate relations between consumers of goods, works and services (individuals only) and business entities, regardless of ownership, that produce and sell goods or food products, perform work or provide services throughout Ukraine.

Consumer rights: Under Ukrainian legislation, consumers are entitled to:

- proper quality of products and their operation during the warranty period,
- demand a proportional reduction in the price; free elimination of defects in the goods within a reasonable time; reimbursement of the costs of eliminating defects in the goods (in the case of defective goods);
- exchange goods within 14 days from the date of purchase;
- safe products, e.g. the manufacturer must indicate the shelf life and conditions of use;
- information about the product: the label must contain the name of the product, date and place of production, expiration date, etc.;
- information about seller and supplier, e.g., email address and online store address in the case of e-commerce.

Liability: Potential issues and non-compliance, in particular when accompanied by safety incidents, will most commonly lead to remedial measures such as corrective actions, where market withdrawal or a product recall is reserved for the cases where the products have already been launched on the market and purchased by consumers. Additionally, non-compliance with the consumer protection requirements may trigger penalties for the seller/performer/manufacturer. Repeated violation or non-compliance with a remedial order from the consumer protection authority or a court may trigger additional monetary penalties. In addition, if any damages are caused to consumers by incompliance, such damages are subject to reimbursement via court hearings.

TERMS OF SERVICE

Terms of services become enforceable only if consumers read, understand and explicitly agree to the terms (e.g., via direct ordering). If the Terms of Service contain references to other documents, the consumer should have unimpeded access to them. Further, clauses must be in compliance with consumer protection laws regulating the entering into agreements and Terms of Service with consumers.

UKRAINE

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STARTUP LEGAL PLAYBOOK

TAX/FUNDING

Taxation overview: Ukrainian start-ups are typically organized in the form of legal entities. Therefore, we limit our tax overview on the investment into start-ups organized as a company under Ukrainian laws.

Corporate Income Tax (CIT): Resident companies are subject to CIT on their worldwide profit at a general rate of 18%. Special rates apply to certain industries, such as insurance and gambling, and banks. Diia City, a virtual free economic zone, offers an alternative tax regime for eligible tech companies.

Value Added Tax (VAT): The general VAT rate is 20%, with reduced rates of 14% for certain agricultural products and 7% for specific industries. Exports are taxed at 0%. VAT is administered electronically, and only registered VAT payers can claim input VAT. Special exemptions apply under martial law.

Payroll taxes: Employees' salaries and other income is taxed by personal income tax at a standard rate of 18%. An additional 5% military tax is applied to all income fir the duration of martial law. Employers must also pay a Unified Social Contribution (USC) of 22% on salaries, which is paid at employer's own expense (subject to maximum cap).

Withholding Tax: A 15% withholding tax is applied to Ukrainian-sourced income for non-residents, which can be reduced or eliminated by double-tax treaties. This includes income from interest, dividends, royalties, as well as capital gain from sale of Ukrainian assets (including sale of foreign shares deriving their value from Ukrainian real estate).

Special Tax Regimes and Incentives: Diia City offers a special tax regime for tech companies, including reduced payroll tax rates and an alternative income tax regime. Ukraine also provides various tax incentives, such as deductions and exemptions, to attract foreign investment.

Compliance and Reporting: Companies must comply with transfer pricing rules, report controlled transactions, and adhere to thin capitalization rules. Non-compliance can result in financial, administrative, and criminal liabilities. Special provisions apply during martial law, including exemptions and liability releases for certain tax breaches.

Funding: In Ukraine, there are numerous funding and incentive programs available to startups and companies at various stages of development. These programs are managed at both the national and regional levels, offering different opportunities depending on the specific location where the startup operates:

- **"Diia.Business Grants"** is a government initiative of Ukraine aimed at supporting various types of businesses, including small and medium-sized enterprises, startups, tech companies, innovative projects in the field of digital technologies, and individual entrepreneurs. This program provides up to approximately $6,016. However, if the place of business and registration is in Kharkiv, Dnipropetrovsk, Donetsk, Zaporizhzhia, Mykolaiv, Sumy, Kherson or Chernihiv regions, or in the respective regional administrative centres, the amount of assistance is up to $11,547.
- **Ukrainian Startup Fund** focuses on supporting various types of startups, especially those operating in the fields of technology, innovation, and digitalization. The types of businesses that can apply for grants from the USF include big data, blockchain, cybersecurity, educational technology, lifestyle, energy and ecology, fintech/legaltech, eGovernment, healthcare, media and advertising, retail, industry, artificial intelligence, biotechnology, and agritech.
- **Google for Startups Ukraine Support Fund** provides equity-free financial awards and Google support to assist Ukraine-based startups in sustaining and expanding their businesses, fortifying their community, and laying the groundwork for post-war economic recovery.
- **iHUB** is an innovation hub for startups and tech companies in Kyiv, Lviv, and Vinnytsia. It creates ideal conditions for the development and acceleration of startups, offering support and participation in our acceleration programs.
- **1991 Accelerator** offers thematic development programs for startups, public sector employees, and IT enthusiasts. The first and largest accelerator by pipeline in Ukraine. It helps turn ideas into real startups that provide services to citizens, businesses, and government agencies.

WHAT ELSE?

Martial law: Since 24 February 2022, Ukraine has been under martial law since Russia's illegal and unprovoked invasion. This means that a number of restrictions and specific regulations are in place, including working day schedule (generally, no public holidays until the end of martial law), prohibition on males eligible for military service leaving the country (with some exemptions), additional exemptions regarding the storage of state data abroad, etc.

Reservation of conscripts: This is a special procedure which allows employees from the public and private sector to be reserved from conscription to the army, subject to certain eligibility criteria, for up to twelve months with the possibility of further renewal.

Diia City regime: Diia City is a special legal and tax regime for eligible tech companies that offers exclusive legal, employment, and tax rules for companies registered as its residents (link).

Benefits for Diia City residents:

- Low tax rates: 5% personal income tax (vs. 18% for all other sectors), social security fee (22% of the minimum wage (approx. 44 USD) vs. 22% from certain statutory number), 5% military tax; corporate tax -9% exit capital tax or 18% income tax;
- Guarantees for its residents: the stability of taxation terms, presumption of the legality of the resident's activity, etc. for at least 25 years;
- GIG contracts: a new contractual model for Diia City residents engaging IT personnel that combines the features of a classic employment agreement and a civil law service agreement;
- Additional guarantees for IT companies regarding the protection of intellectual property rights; etc.

NBU restrictions: due to martial law, the National Bank of Ukraine (the "NBU") issued some restrictions, including:

- cash withdrawals in Ukraine from individual client accounts are limited to UAH 100,000 or equivalent amount in a foreign currency per day, except if, among others, such withdrawal is to pay salaries or social benefits (applicable only to UAH);
- cash withdrawals outside Ukraine from clients' accounts in UAH and in foreign currencies are restricted to UAH 12,500 (or equivalent in a foreign currency) per week;
- banks are also generally prohibited from making cross-border currency payments on behalf of their clients, with numerous exceptions, including payments under import operations for goods and certain types of services, work and IP objects; certain payments abroad for an individual's own purposes (education, medical bills, etc.); payments for mobilisation and defence purposes;
- a prohibition on the transfer to Ukrainian individuals of any funds initiated with the use of electronic payment instruments which are operating in the Russian Federation or the Republic of Belarus; and other restrictions.

Dividend payment restrictions: The NBU has prohibited the repatriation of dividends outside Ukraine during martial law.



UNITED ARAB EMIRATES

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UNITED ARAB EMIRATES

LEGAL FOUNDATIONS

The United Arab Emirates is a federal state formed under "The Constitution of the United Arab Emirates (**UAE**)" and made up of seven Emirates. The UAE is primarily a civil law jurisdiction, with a legal framework based on codified federal legislation rather than judicial precedent.

Federal laws apply across all Emirates and prevail in areas falling within federal competence. That said, each Emirate retains its own legislative and judicial authority in matters not reserved to the federation and may issue local laws and regulations applicable within its territory. As such, commercial, corporate and civil matters are governed predominantly by federal and emirate level statutes.

Alongside the federal and emirate legal framework, the UAE has established a number of free zones with the authority to issue their own regulations. In particular, the Dubai International Financial Centre (**DIFC**) and the Abu Dhabi Global Market (**ADGM**) operate under separate legal systems for civil and commercial matters, both of which are based on English common law and have their own courts.

In practice, the UAE legal framework operates across the following layers:

- Federal law, including the Constitution of the UAE and federal legislation;
- Emirate level law, including local legislation and courts; and
- Free zone regimes, with DIFC and ADGM functioning as standalone common law jurisdictions for civil and commercial disputes.

U.A.E.

CORPORATE STRUCTURES

From a practical perspective, startups entering the UAE will typically establish either an onshore (mainland) entity or a free zone entity, depending on their business model and where they intend to operate.

The most common onshore structure is the limited liability company (LLC). A mainland LLC can carry out business within the Emirate it is incorporated in and is licensed by the relevant economic authority in the Emirate of incorporation. It is common for LLC's and/or foreign companies to establish a branch office. Prescence in the UAE can also take the form of a representative (liaison) office which is legally treated as a branch but is limited to only marketing and promotional activities.

Alternatively, startups may choose to establish in one of the UAE's free zones, typically as a free zone LLC or a free zone branch. The practical benefit of incorporating in a free zone is predominately on industry-specific activities or leasing (i.e. presence required in a specific area of the UAE). That said, free zone entities are from a strict legal perspective restricted from conducting business directly in the UAE mainland market. Where access to the mainland is required, this is typically achieved through the appointment of a locally licensed distributor or by establishing a mainland LLC or a branch.

Incorporation will usually require the submission of various corporate documentation. As the UAE is not a party to the 1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, documents originating from outside the UAE for use in the UAE require a full, multi-step consular legalisation process, including UAE embassy attestation, rather than a simple apostille. Official arabic translation by certified legal translators in the UAE may also be required in the case of incorproation in mainland UAE.

ENTERING THE COUNTRY

The UAE has significantly liberalised its foreign investment regime in recent years.

The Federal Decree Law on Commercial Companies (as amended) was amended in the year 2021 to permit up to 100% foreign ownership for a broad range of commercial and professional activities. Whether full foreign ownership is available is assessed on an activity-by-activity basis, with each Emirate publishing its own lists of permitted activities. Certain activities continue to be treated as strategic sectors and may still be subject to ownership restrictions, additional regulatory approvals or local participation requirements. These include defence and security-related activities, banking and financial services, insurance and other sensitive industries. Where full foreign ownership is not available for a particular activity, alternative structuring options may be considered, subject to a legal and commercial assessment.

Companies established in UAE free zones may be 100% foreign-owned, with no requirement for UAE national participation.

U.A.E.

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STARTUP LEGAL PLAYBOOK

INTELLECTUAL PROPERTY

Trademarks

What is protectable? Under Federal Decree Law No. 36 of 2021 on Trademarks, a protectable trade mark includes names, words, signatures, letters, figures, graphics, logos, titles, hallmarks, seals, pictures, patterns, colours, packaging, or any combination thereof that is distinctive and capable of distinguishing goods or services. A distinctive sound or smell may also be recognized as a trademark but meeting the required distinctiveness can often pose a challenge for these types of marks. The UAE operates a "first-to-file" system, meaning that the first party to file a trade mark application generally has priority over subsequent applicants, regardless of prior use.

In the UAE, trade mark applications are filed on a per-class basis, meaning each application covers only one class of goods or services. If multiple classes are required, separate applications for each class are required.

Where to apply? Trademarks are registered with the UAE Trade Mark Office, which sits with the Ministry of Economy, via its online portal. Required documents include:

- Proposed trademark
- Commercial licence copy if the applicant is a registered business
- Passport copy of the owner if the applicant is an individual
- Power of Attorney authorising a local law firm to act on behalf of the applicant
- Priority documents (if applicable)

The UAE is party to the Paris Convention, the TRIPS Agreement, and the Madrid protocol.

Duration of protection? If no oppositions are filed and the application proceeds to registration. Trade mark protection lasts 10 years, and is renewable every 10 years.

Costs? Official fees are USD 1,780 per mark, per class (excluding professional fees).

Patents

What is protectable? A patent may be granted for any new invention arising from an innovative idea or innovative improvement that represents a creative step and is industrially applicable. The eligibility criteria for granting a patent include a new invention resulting from an innovative idea or improvement, a creative step, and industrial applicability.

Where to apply? Patents are registered with the UAE's Ministry of Economy via its online portal. Required documents include:

- Specification, claims and/or drawing of patent (in Arabic and English)
- Commercial licence copy if the applicant is a registered business
- Passport copy of the owner if the applicant is an individual
- Power of Attorney authorising a local law firm to act on behalf of the applicant
- Deed of Assignment from the inventor to the applicant (if applicable)
- Priority documents (if applicable)

The UAE is a member of the Patent Cooperation Treaty 1970 (PCT) and WIPO Paris Convention for the Protection of Industrial Property 1883 (Paris Convention).

Duration of protection? A patent is valid for 20 years from the date of application or from the date of international filing.

Costs? Official fees are USD 545 per patent (excluding examination and professional fees). Please note, the specification, claims and patent drawings are technical documents and preparation of these often incurs high fees.

Employee invention? Employer-employee patent ownership is primarily governed by Federal Law No. 11 of 2021 on Industrial Property Rights. Inventions created during employment within the scope of work or using employer resources belong to the employer, unless agreed otherwise. Employees are required to report inventions in writing, and if the invention holds significant economic value beyond expectations, the inventor is entitled to fair, additional compensation, often determined by courts if not agreed upon. It is recommended that this position is reflected in all employment agreements.

INTELLECTUAL PROPERTY, CONT'D

Copyright

What is protectable? Under Federal Law No. 38 of 2021 On Copyrights and Neighbouring Rights, a "work" is defined as any innovative production in the fields of literature, arts, or science, of whatever type, manner of expression, significance, or purpose. Copyright protection is granted automatically with the creation of a work. Whilst it is an option to register copyright in the UAE, in practice it is uncommon.

In addition to the Berne Convention, the UAE has acceded to the WIPO Copyright Treaty, the Rome Convention and the WIPO Performances and Phonograms Treaty.

Duration of protection? Copyright is protected for the entire lifetime of the author, and then for 50 years commencing on the first day of the calendar year following their death.

Employee Works? Employer-employee copyright ownership is primarily governed by Federal Law No. 38 of 2021 On Copyrights and Neighbouring Rights. Works created within the scope of employment (i.e. in an employee's duties or as indirectly mandated by an employer) or using an employer's resources, are deemed to belong to the employer. It is recommended that this position is reflected in all employment agreements.

Ownership of commissioned works? Federal Law No. 38 of 2021 On Copyrights and Neighbouring Rights states that if an Author creates a work in favour of another person, the copyright shall be attributed to such person. It is recommended that this position if reflected in a written agreement, or if there is any uncertainty a written assignment is provided from the author in favour of the intended copyright owner.

Trade Secrets

What is protectable? Trade secrets as such are not recognised as a registrable intellectual property asset. However, under Federal Decree-Law No. 31 of 2021 (the Penal Code), it is a criminal offence for an individual to disclose secrets by virtue of their profession, occupation, status or specialisation. In addition, civil remedies may be available.

Duration of protection? As long as appropriate measures are in place and information has a commercial value, information shall be deemed to be confidential commercial or technical information that is protectable as a secret. Thus, companies should take appropriate non-disclosure measures (eg marking information as trade secrets, implementing IT security measures, particularly access restriction and concluding NDAs).

DATA PROTECTION/PRIVACY

The data protection landscape in the UAE is complex. There are three distinct data protection frameworks, as well as broadly-worded privacy-related provisions in the UAE's federal laws and numerous sector specific laws and regulations.

The three main data protection frameworks in place are:

1. Federal Law No. 45 of 2021 on the Protection of Personal Data (**PDPL**). The PDPL is applicable to entities established in the UAE as well as entities established outside the UAE who process personal data relating to data subjects located in the UAE (i.e., it has extra-territorial effect).
2. The DIFC Law No. 5 of 2020 (as amended) (**DIFC DP Law**). The DIFC DP Law is applicable to entities established within the DIFC as well as entities that are not established within the DIFC but who process personal data in the DIFC as part of stable arrangements (other than on an occasional basis).
3. The ADGM Data Protection Regulations 2021 (**ADGM DP Regs**). The ADGM DP Regs are applicable to entities established within the ADGM.

As mentioned above, the DIFC and ADGM are independent financial free zones in the UAE that operate their own legal systems based on English common law. The PDPL does not apply to entities that are established in the DIFC or ADGM. Instead, the DIFC DP Law and ADGM DP Regs apply, respectively.

The three main frameworks set out key overarching principles. These general principles are broadly aligned with the principles contained in other established data protection laws (e.g. lawfulness, fairness and transparency; purpose limitation; data minimisation; accuracy; storage limitation; integrity and confidentiality; and accountability).

In addition to the overarching principles, the frameworks contain numerous specific obligations that are imposed on controllers and processors, respectively. The key obligations for controllers include:

- to ensure they have a lawful basis for processing personal data;
- before processing personal data, provide data subjects with certain fair processing information that informs them of how and why their personal data will be processed;
- take appropriate technical and organisational measures and procedures to protect and secure personal data;
- maintain a record of processing activities;
- where required, to notify data breaches to the regulator and data subject;
- comply with the rights of data subjects; and
- not transfer personal data outside the UAE/DIFC/ADGM (as applicable) other than to jurisdictions that have been approved by the relevant regulator as providing an adequate level of personal data for personal data or where appropriate safeguards have otherwise been implemented in relation to the transfer.

Whilst the PDPL has been effective since January 2022, the Executive Regulations to the PDPL have not yet been published. From the date the Executive Regulations are issued, controllers and processors subject to the PDPL will have six months to ensure compliance. Both the DIFC DP Law and ADGM DP Regs are enforceable and the regulators – the DIFC's Commissioner of Data Protection and the ADGM's Commissioner of Data Protection, respectively – are active.

In addition to these data protection frameworks, there are certain sector-specific laws and regulations that include data protection-related provisions, including in the financial services, healthcare and telecommunications sectors. Some of these sector-specific laws impose data localisation requirements which mandate that certain categories of data remain in the UAE.

U.A.E.

ARTIFICIAL INTELLIGENCE

The UAE has made significant strides in developing frameworks to govern AI; however, to date, the governments have focused on strategic initiatives and ethical guidelines rather than binding laws. Accordingly, there is no unified federal law or emirate level law in the UAE that addresses AI as a primary focus. Instead, AI is governed through a patchwork of non-AI laws and non-binding guidelines.

In the DIFC, however, specific provisions have been added to the DIFC's data protection laws to address the processing of personal data in connection with AI systems. The key obligations include providing clear notice to users about the use of AI, demonstrating compliance with fairness and transparency principles and maintaining evidence of algorithms that cause the AI system to seek human intervention in certain circumstances (e.g., to prevent discriminatory outcomes). The regulations require that AI systems are ethical, fair, transparent, secure and accountable by design, and there are also mandatory audit and certification requirements for AI systems that engage in high-risk processing activities.

In addition, certain sector regulators have issued AI-related policies and regulations that their licensees are obliged to comply with.

EMPLOYEES/CONTRACTORS

Applicable Law: Employment relations in the private sector in the UAE are generally governed by Federal Decree Law No. 33 of 2021, as amended and its accompanying regulations Cabinet Decision No. 1 of 2022 (**Labour Law**). The Labour Law applies to all onshore mainland private sector entities as well as those in the free zones, with the exception of the DIFC and ADGM free zones (which, as mentioned above, each have their own seperate employment regulations, governed by common law principles).

General: An employer and employee must conclude an employment agreement, which stipulates their rights and obligations set forth by the applicable law. All employment contracts under the Labour Law must be fixed term in nature. There is, however, no statutory cap on the length of term, and any extension of term is considered as a continuation of service. In practice, most contracts governed by the Labour Law are drafted so that they operate akin to an unlimited term contract and renew automatically on expiry of the term. Subject to where an entity is incorporated, it may also be mandatory for an employer and employee to enter into a standard form employment contract required by the applicable governing labour authority.

A company may also engage the services of a contractor, provided that the contractor has the correct licenses and approvals to conduct the services. Correctly licensed contractors are not subject to the minimum requirements set out in the applicable labour law.

Right to work: All employees must hold a valid UAE residency visa and work permit (as applicable). There are several self-sponsored visa options available however, most employees are sponsored for visa/work permit purposes by the employer. UAE/GCC national employees do not require a visa however, a work permit is still required. An employer is responsible for obtaining (and maintaining) the pre-requisite sponsorship documentation, at its own expense.

Works councils/trade unions: There are no works councils or trade unions in the UAE.

Termination: Employment contracts can be terminated with adherence to the applicable notice dates and periods. For employees under fixed term contracts, there is no penalty in the event either party terminates prior to the expiry of the term. Summary dismissal is also available in limited circumstances under adherence to the applicable statutory conditions.

There is no concept of "unfair dismissal" in the UAE however, termination must not be discriminatory. Under the Labour Law, termination will be deemed "unlawful" if termination is because of; (i) an employee filing a serious complaint with the labour authority or; (ii) a previous court case which was upheld (effectively akin to the concept of "victimization" in other jurisdictions).

EMPLOYEES/CONTRACTORS, CONT'D

Pension/savings: There is no mandatory pension for non UAE/GCC employees in the UAE. Instead, under the Labour Law (and in the ADGM) eligible employees will receive a lump sum end of service gratuity payment on termination (calculated with reference to final "basic" salary and overall length of service). In the DIFC, employers must enrol all eligible employees into a statutory compliant savings scheme and make mandatory monthly contributions in accordance with the applicable law.

Eligible UAE and GCC national employees must be registered by their employer with the relevant state pension scheme. For these employees, monthly social security contributions are mandatory, with varying rates based on nationality. Employers are responsible for both their own and their employees' contributions.

Medical insurance: Employers are required to provide (and pay for) health insurance for all expatriate employees. In the Emirate of Abu Dhabi, this obligation extends to an employee's dependents (spouse and up to 3 children under the age of 18). In the other Emirates, health insurance for dependents is typically offered to employees as an enhanced benefit.

Emiratisation: Emiratisation is a UAE government initiative aimed at increasing the employment of UAE nationals in the private sector. Emiratisation currently applies only to mainland private-sector companies registered with the Ministry of Human Resources and Emiratisation. There are varying Emiratisation targets which apply based on company size and sector. Non-compliance with Emiratisation requirements may result in substantial fines and/or penalties.

CONSUMER PROTECTION

The UAE has a comprehensive consumer protection regime, primarily governed by Federal Law No. 15 of 2020 on Consumer Protection and Federal Law No. 14 of 2023 on Trading by Modern Technology Means (together, **Consumer Protection Laws**). The Consumer Protection Laws apply to products and services offered inside the UAE, including the free zones. Despite the Consumer Protection Laws applying directly in the ADGM, the ADGM has issued the Consumer Protection Regulations 2025, which apply to the offering of products and services to consumers within the ADGM. Interestingly, the DIFC has not issued its own consumer protection regulations.

A "Consumer" is defined in the Consumer Protection Laws broadly to include natural and legal persons obtaining products or services, with or without charge, to satisfy their own or another person's needs. This is notably broader than many other jurisdictions where consumer protection applies only to natural persons. A "Supplier" is also defined broadly and captures any legal person who offers a service or who manufactures, distributes, trades in, sells, supplies, exports, imports or plays a part in producing, trading or storing a product in order to provide the product to a consumer.

Language Requirements

Under the Consumer Protection Laws, all contractual documentation, including terms and conditions and invoices, must be in Arabic. In practice, it is common for Suppliers to use both Arabic and English, as, although Arabic is the official language of the UAE, English is the most commonly-spoken language in daily life.

In the ADGM, the Consumer Protection Regulations 2025 require all contractual documentation to be in English.

CONSUMER PROTECTION, CONT'D

Harmful Terms & Limitations of Liability

Suppliers are prohibited from including any term in consumer contracts that harms the consumer. The following are examples of terms that are expressly prohibited:

- Rights to interpret or amend the contract;
- Rights to unilaterally terminate the contract;
- Rights to determine whether a product or services is in compliance with the contract;
- Rights to change the specifications for products or services, except in specific circumstances (e.g., improvements in services);
- Requiring the Consumer to pay compensation to the Supplier that is in excess of the actual damages suffered by the Supplier; and
- Rights to increase the price without giving the Consumer the right to terminate as a result of the price increase.

In addition, any term in a contract that exempts the Supplier from compliance with the obligations in the laws or limits the Consumers right to compensation for damage are deemed to be void and not enforceable. This means that limitations on the Supplier's liability are unlikely to be enforceable.

Promotional Licences & Pricing Discounts

Before promoting products or services and/or announcing any pricing discounts, Suppliers are obliged to obtain a licence from the competent authority. In addition, Suppliers are obliged to notify Consumers of any pricing discounts that are to be made on the products or services purchased by the Consumer within a week of purchase. If the Supplier does not do this, the Consumer has the right to recover the price difference.

Price Setting

The Minister of Economy has issued a pricing policy which prohibits any increases in the price of nine basic consumer goods – cooking oil, eggs, dairy, rice, sugar, poultry, legumes, bread and wheat — without the prior approval from the Ministry of Economy & Tourism.

In addition, in the event of an emergency, the Minister has the power to take all necessary measures to protect the interests of consumers and prevent their harm. This includes having the power to issue a resolution determining the prices of products sold in the UAE.

TERMS OF SERVICE

Outside of the controls in the consumer protection laws, referred to in question 8, the UAE generally recognises the legal principle of 'freedom to contract'. Accordingly, there are no mandatory terms that must be included within online terms of service for the terms to be enforceable. Any provisions within the terms of service that contradict Islamic Shari'a, public policy or the morals of the UAE, are unlikely to be enforceable, though.

TAX/FUNDING

UAE start-ups are typically organized in the legal form of corporations and may be established either in a Free Zone or on the Mainland, depending on the nature of their activities and their target market. Therefore, we limit our tax overview on the investment into start-ups organized as a UAE corporation.

Tax

Corporate Income Tax: Under the UAE corporate tax regime, a distinction is made between 'regular taxpayers' and 'Qualifying Free Zone Persons' (**QFZP**):

1. Regular taxpayers are subject to the statutory rate of 9% on taxable income exceeding AED 375,000, whereas a 0% rate will apply for taxable profits up to AED 375,000 (approximately USD 100,000).
2. QFZPs, on the other hand, are eligible for a 0% tax rate on certain income streams, defined under the Federal Decree-Law No. 47 of 2022 on the Taxation of Corporations and Businesses (CIT Law) as 'Qualifying Income' (e.g., Qualifying IP Income). Any income that is not Qualifying Income will in principle be subject to 9%.

Withholding Tax on Dividends: Dividends paid by a UAE corporation to its shareholders are subject to withholding tax (**WHT**) at a rate of 0%, irrespective of whether the shareholders are legal entities or individuals (under UAE domestic tax law, irrespective of any tax treaty being applicable).

Withholding Tax on Interest: Interest payments to non-resident companies are subject to WHT at a rate of 0% (under UAE domestic tax law, irrespective of any tax treaty being applicable).

Withholding Tax on Royalties: Royalties paid by a UAE corporation to a non-UAE recipient are subject to WHT at a rate of 0% (under UAE domestic tax law, irrespective of any tax treaty being applicable).

Capital Gains Tax: Capital gains are generally treated as ordinary taxable income unless they qualify for the participation exemption regime or benefit from relief applicable to business restructurings or intra-group transfers of assets and liabilities. Gains derived from UAE real estate remain subject to tax.

A foreign investor shareholder will generally not be subject to UAE capital gains tax on the disposal of shares in a UAE corporation, unless the gain is attributable to immovable property held by the disposed UAE corporation. In such cases, the applicability of relevant tax treaty should be assessed, where available.

VAT: The UAE VAT regime is loosely based on the EU VAT system with a number of notable differences. The UAE VAT applies to most supplies of goods and services, including the import of goods and services. The standard VAT rate is 5 percent. For specific activities, a zero rate applies (such as export of goods and services, supply of eligible educational services and healthcare services), whereas other activities may be exempt (such as financial services).

UAE corporations engaged in taxable activities are generally entitled to recover input VAT incurred on business related expenditure. VAT registration is mandatory where taxable supplies exceed AED 375,000, and registered taxpayers are required to file periodic VAT returns, typically on a quarterly basis.

R&D Incentive relevant for start-ups: A QFZP may benefit from a 0% tax rate on income arising out of Qualifying IP (such as patents or copyrighted software), provided there is a 'direct nexus' between the income derived from the exploitation of the Qualifying IP and the R&D expenditure that the QFZP incurs to generate that income. In other words, the greater the proportion of expenditure incurred to fund R&D activities relative to total expenditure, the larger the amount of Qualifying Income eligible for the 0% tax rate under the Free Zone tax regime.

In addition to the Free Zone Tax Regime, a new Cabinet Decision introducing the UAE R&D Tax Credit is expected to be adopted in 2026. The draft text published in 2025, shows that the regime will offer a refundable or creditable tax incentive to eligible entities undertaking qualifying R&D activities in the UAE. Eligibility will require prior approval from the designated Competent Authority.

TAX/FUNDING, CONT'D

Funding

Startup funding in the UAE is largely driven by government-backed funding, innovation programmes and specialized free zone support. In addition to public support initiatives, the UAE benefits from an active private funding environment, including venture capital funds, angel investors, family offices, and alternative financing platforms. Free zones play an important role in this ecosystem by offering tailored licensing and incentive schemes that facilitate company formation and growth.

As a result, start-ups operating in the UAE can access a broad range of funding and non-financial support options that are closely aligned with their stage of development and strategic objectives. These are offered through various accelerators and funds, including the following.

Business and start-up incubators:
- MBZUAI Incubation and Entrepreneurship Center;
- Area 2071 overseen by Dubai Future Foundation;
- Hub71 (Abu Dhabi's Global Tech Ecosystem);
- Dubai Founders HQ;
- Fazaa Center for Business Incubators and Accelerators.

Further information about the business incubators is available on the official UAE government platform.

Government entities supporting start-ups:
- Mohammed Bin Rashid Innovation Fund (MBRIF);
- Dubai Future District Fund (DFDF);
- Khalifa Fund (Abu Dhabi);
- Dubai SME;
- Sharjah Entrepreneurship Center (SHERAA);
- Sharjah SME RUWAD;
- Emirates Development Bank (EDB).

Further information about the business incubators is available on the official website of the UAE Ministry of Economy and Tourism.

Crowdfunding

Crowdfunding is the practice of funding a project by raising money from a large number of people through licensed online platforms. The Crowfunding framework for both the public and private sectors was approved by the UAE Cabinet In March 2022. Examples of licensed crowdfunding platforms in the UAE are the following:

Examples of crowdfunding platforms in the UAE are:
- DubaiNEXT;
- Beehive;
- Eureeca;
- Tathmeer.

Further information is available on the official UAE government platform.

WHAT ELSE?

Corporate

1. Licensing is activity driven. The scope of permitted activities is defined narrowly on the licence, and operating outside the licensed activities can lead to regulatory issues. It is imperative that care is taken at the outset to ensure that the selected licence accurately reflects the intended business model and anticipated growth. DLA Piper can assist you with an activity analysis to determine the suitable/eligible activity to be included on your licence.
2. Ultimate beneficial ownership declarations are of course mandatory but notably can be administratively taxing specifically for mainland entities. It is important for start-ups to ensure that the information and supporting documents to be provided to the authorities which evidence ownership is clear, organised and prepared well in-advance.



UNITED KINGDOM

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UNITED KINGDOM

LEGAL FOUNDATIONS

The United Kingdom is divided into three distinct legal jurisdictions: England and Wales, Scotland and Northern Ireland.

England and Wales have a common law system. Scotland has its own independent and, in parts, clearly different judicial system with its own jurisdiction. The law of Scotland is not a pure common law system, but a mixed system. Northern Ireland has its own common law system and jurisdiction. It is similar to that in England and Wales, and partially derives from the same sources, but there are important differences in some areas of law-making and procedure. It is uncommon to use either Scottish or Northern Irish governing laws or jurisdictions in a commercial transaction; even if one of the companies is incorporated in one of these jurisdictions, the parties will generally choose the law of England and Wales, with exclusive jurisdiction of the English courts.

The main sources of United Kingdom domestic law are Acts of Parliament, case law, retained EU law which has been assimilated into domestic law post-Brexit, and international treaties and conventions (most notably, the European Convention on Human Rights).

UNITED KINGDOM

ITECHLAW® INTERNATIONAL TECHNOLOGY LAW ASSOCIATION
STARTUP LEGAL PLAYBOOK

CORPORATE STRUCTURES

The following are the most common business structures in the UK:

Sole Trader

An individual runs his or her own business and is self-employed.

Any UK taxpayer (over the age of 16) can register with the UK tax authorities (His Majesty's Revenue and Customs, HMRC) and conduct business as a sole trader.

ADVANTAGES

- Minimal set up and administration.
- Registration at the UK's corporate register (Companies House) is not required although the business owner should notify HMRC.
- The individual can keep all the business's profits after paying tax on them.

DISADVANTAGES

- This type of business is not deemed to be a legal entity in its own right; the owner of the business has unlimited liability for all debts and legal actions.

Private Limited Company

A private limited company has separate legal personality from its shareholders. This is the most popular business structure for a start-up enterprise in the UK. Information regarding filing history and current appointments is publicly available on the Companies House register.

A limited company requires the following:

- At least one director over the age of 16 (does not need to be a UK national);
- A registered office in the UK;
- A company name that complies with UK Government regulations: (www.gov.uk), and is not already in use;
- At least one share issued at the time of incorporation;
- Corporate governance:
  - a standard form memorandum of association;
  - articles of association: most companies start with Model Articles (available from the UK Government website (www.gov.uk) and amend them to suit the needs of the business as the company develops;
  - shareholders may enter into additional agreements to further regulate corporate management issues and cover issues that are not set out in the articles of association (for example, protection for minority shareholders, pre-emption rights and dispute resolution mechanisms).

ADVANTAGES

- Limited liability for shareholders.
- Minimal incorporation and operating costs.
- Administratively easy to issue new shares in funding rounds.

DISADVANTAGES

- Administration: keeping up to date with filings at Companies House and HMRC

CORPORATE STRUCTURES, CONT'D

Public Limited Company (PLC):

This type of company is also a legal entity in its own right and legally separate from those who own it. The shares of a PLC can, however, be traded publicly. The operating costs of running a PLC are considerably higher than private companies and this structure is generally suited to larger enterprises.

A PLC has the same requirements as a private limited company, plus the following:

- At least two directors over the age of 16 (do not need to be a UK nationals);
- A minimum of £50,000 of issued shares;
- Shareholders may not enter into a separate shareholders' agreement to supplement the PLC's articles of association.

ADVANTAGES

- Limited liability.
- Easier to raise finance via public market.

DISADVANTAGES

- Administration: keeping up to date with filings at Companies House and HMRC.
- High minimum liquidity requirements.
- Public transparency and market accountability if shares listed.

Partnerships

These are most commonly established by professional services organisations (such as law, investment or accounting firms) whereas companies tend to be used for trading businesses. There are several varieties of structure, as follows.

General partnership: Two or more people working together under the same business name. Partnerships must be registered with HMRC, but not with Companies House. Each partner has unlimited liability.

Limited partnership (LP): An entity registered at Companies House, consisting of two or more partners, who can be individuals or corporate entities. The partners can be located outside the UK, but the partnership must have its principal place of business in the UK.

The LP itself is not taxable. Members are taxed individually both on profits earned by the LP and gains on the sale of the LP's assets.

Limited Liability Partnership (LLP): Operates similarly to a limited partnership, with the added security of limited legal liability for its members.

ADVANTAGES

- Liability of members is limited.
- Organisational flexibility: bound by a private Members' Agreement, not articles of association.
- Minimal incorporation and operating costs

DISADVANTAGES

- Administration: keeping up to date with filings at Companies House and HMRC.
- Membership structure is unattractive to investors.

ENTERING THE COUNTRY

Registration of particulars
An overseas company that carries on business in the UK may need to register with Companies House as a 'UK establishment' if it has a physical place of business or branch in the UK. This also involves providing documents such as copies of accounts. When registering an overseas company, the UK company names rules must be complied with. Subsequent to registration, certain changes must be notified to Companies House if they occur.

An overseas company that has registered a UK establishment must display its name and country of incorporation at UK locations where it carries on business or accepts service of documents. Its company name must also appear on company documents, including order forms and websites, and certain documents (including order forms and websites) must also state particulars such as the company number and other details about the company.

Economic Crime (Transparency and Enforcement) Act 2022
This is relevant to any overseas entity that owns, or wishes to own, land in the UK. The Act sets up a register of overseas entities, which includes information about their beneficial owners, and contains provisions designed to compel overseas entities to register with Companies House if they currently own, or wish to own, land in the UK. It is designed to provide more information for law enforcement to help them to track down those using UK property as a money laundering vehicle. There are strictly imposed sanctions for non- compliance, including restrictions on registering or disposing of title in land.

Scrutiny of transactions involving risks to national security
The National Security & Investment Act 2021 provides for government scrutiny and potential intervention in acquisitions of UK rights, assets (both physical and intangible) or entities, if such acquisitions could harm UK national security.

This includes a requirement to notify acquisitions of UK entities that undertake prescribed activities in any of 17 specified commercial fields, including for example AI, advanced robotics, communications, computer hardware, cryptographic authentication and space technologies among others. Completing a notifiable acquisition without government approval renders the transaction void and may result in civil or criminal penalties for the purchaser.

The legislation allows the government to impose conditions on a transaction and to block or reverse transactions entirely. Anything completed before 12 November 2020 is exempt. It is worth noting that relevant entities and assets include those merely having a connection to the UK, such as carrying on UK activities or being used in connection with UK activities, and relevant acquisitions of IP rights may include the grant of licences.

UNITED KINGDOM

INTELLECTUAL PROPERTY

The following intellectual property rights are registrable in the UK: patents, trademarks, designs. There is no system of utility model protection.

A single UK registration covers all territories within the United Kingdom (England, Wales, Scotland and Northern Ireland). However, procedures for enforcement may differ in certain respects as between, respectively, (1) England and Wales, (2) Scotland, and (3) Northern Ireland.

In addition to registrable rights, the following unregistered rights are protectable under English law, as applied throughout the UK: unregistered trade mark rights (passing off), design rights, confidential information/trade secrets, copyright, and database right.

Patents

Patent protection in the UK lasts 20 years from filing, provided that the patent is periodically renewed. The UK is a member of the European Patent Convention (which means that UK national patents and EP(UK) patents are both options), but not a member of the European Unified Patent Court/Unitary Patent system. Unlike the EPC system, there is no UK national patent opposition procedure, although validity may be challenged post- grant either as a standalone action or in defence to infringement proceedings.

Obtaining a patent in the UK is likely to cost several thousand pounds, most of which comprises fees for specialist advice from a patent attorney. The process typically takes several years to complete, depending on complexity.

If the invention has been disclosed anywhere in the world prior to filing the application, this will invalidate any resulting UK patent. There is no grace period in the UK.

The UKIPO takes a relatively strict approach to the patentability of software-based inventions, but such patents should not be ruled out.

The owner or exclusive licensee of a UK patent may elect to reduce UK corporation tax on profits derived from exploiting the invention, through the 'Patent Box' scheme (subject to qualifying under various applicable criteria).

Trademarks

Trademark registration is relatively cost-effective and quick in the UK. It is highly advisable, since reliance on passing off requires evidence of substantial goodwill built up through UK trading activity and is more difficult to prove.

The registry (UKIPO) charges a filing fee of GBP £205 for a single class, plus £60 for each additional class. It is often advisable to have a trademark lawyer/attorney assist, which will involve additional fees. Examination is typically completed within a few weeks, following which the application is published. Third parties have two months following publication in which to oppose the application (extendable by one month if they file a notice of intended opposition within the initial two months). Once registered, renewal is required every 10 years, for a small fee. The UK is a member of the Madrid system for international registration.

Non-UK trademark representatives are no longer effective for UK 'comparable marks' that were issued from EUTM registrations when the UK left the EU. Owners should appoint UK representatives.

The UKIPO does not reject applications on grounds of prior similar marks on the UK or IR(UK) register. However, a search is carried out during examination, and the UKIPO will report prior similar marks. It will then notify those third parties, unless the applicant withdraws or makes changes to goods/services so as to remove the similarities.

The rules for what is protectable as a registered trade mark are essentially the same as for EU trade marks. However, post-Brexit EU case law is not binding, and laws may diverge in future.

There are no image rights as such in the UK. However, the law of passing off may provide protection where a well-known person has a record of exploiting their image commercially.

INTELLECTUAL PROPERTY, CONT'D

Design Rights

The UK offers registered and unregistered protection for designs. Registered designs last for 25 years. UKIPO application fees are low, but specialist advice should be sought from patent attorneys which will involve additional cost. Registration is potentially advantageous, since infringement does not require copying from the claimant's design. Since novelty is a requirement for registered design protection, disclosure of the design may invalidate a subsequent registration, subject to a grace period.

Unregistered designs law in the UK, which is separate from copyright law, is currently rather messy, with several overlapping forms of protection. These currently comprise:
UK unregistered design right, which lasts for 15 years from making the design, subject to a maximum of 10 years from first marketing of corresponding products anywhere in the world; 'Supplementary unregistered design right'/'Continuing unregistered design right' (depending on whether the design was first published before or after Brexit) which lasts for three years from publication of the design and is equivalent to EU unregistered design right.

The UK-specific right does not protect surface decoration, and protection is limited to designs/designers qualifying territorially, by reference to the UK or to certain other designated territories.

A first disclosure of a design outside the UK may negate protection in the UK. Professional advice should be taken prior to first disclosing a design.

Unregistered designs are only effective against copying, and not against inadvertent similarity of designs.

The UK government has said that it is considering changes to unregistered designs law, which could simplify the options.

Breach of Confidence/Trade Secrets

Breach of confidence is useful where other IP rights may not apply – for example, in relation to algorithms, business ideas and financial data. English law protects confidential information against unauthorised disclosure and misuse, provided that it was disclosed in circumstances whereby it was obviously meant to be kept confidential. There may be limits on available actions where information is used by ex-employees, depending on the significance of the information.

The UK implemented the EU Trade Secrets Directive. However, the effect of this was mainly seen in relation to remedies, since the UK already extensively protected trade secrets. The UK's position may not be fully aligned with that in the EU.

It is advisable to implement a non-disclosure agreement when engaging in preliminary discussions with potential collaborators. These clarify what is protected in the circumstances, and the agreed scope of use, and provide contractual remedies on top of the general law of breach of confidence. NDAs need to be drafted with care.

Copyright

There is no system of registration of copyright in the UK. Copyright arises automatically. UK statutory provisions confine copyright works to certain limited categories – so, for example, software is protected as a 'literary work'. This categorisation requirement can be problematic for 3D industrial (non-artistic) designs, which is likely to be the subject of future English case law in light of the broader EU test for protectability under copyright.

The UK is one of a few countries recognising copyright for computer-generated works. In such cases, copyright is owned by the person who made the necessary arrangements for the creation of the work. The government has proposed abolishing this.

For most categories, copyright lasts for 70 years after the life of the author.

INTELLECTUAL PROPERTY, CONT'D

IP Audits

The Innovate UK 'IP Advance' scheme provides part- funding towards SMEs' costs of an IP audit, performed by an IP professional of the SME's choosing, up to a prescribed budget.

Database Right

Databases may be protected by copyright where the selection or arrangement of data is sufficiently original. Separately, a standalone 'database right' automatically protects a database if there has been a substantial investment in obtaining, verifying or presenting the data. This is derived from the EU Database Directive. For databases created since 01 January 2021, however, only UK citizens, residents and businesses are eligible for UK database right. Similarly, EU database right is no longer available to UK database makers for post-Brexit databases. It may therefore be necessary to establish different regional entities if comprehensive database right protection is required.

Database right is infringed by unauthorised extraction or reutilisation of data.

Enforcement of IP rights in the UK

The UK courts are among the most sophisticated worldwide in terms of dealing with complex IP disputes. Whilst the UK offers a dedicated IP court for SME IP disputes, no IP litigation in the UK is 'low cost'. It is also more difficult and far more costly to obtain an interim injunction compared to other European territories. An alternative, cost-effective option for patent validity disputes is the UKIPO Opinion service.

Advice should be taken before asserting UK patents, design rights or registered trade marks, even informally, since unjustified threats are actionable by anyone aggrieved, unless kept within permitted lawful confines. This may also affect online takedown notices.

Following 'Brexit', the UK has maintained a one- sided exhaustion of rights regime for the whole of the EEA and UK. Therefore, legitimate products first placed on the market in the EEA can still be imported into the UK without UK right holder permission. In contrast, imports of legitimate goods from the UK may now infringe rights in the EEA.

DATA PROTECTION/PRIVACY

UK GDPR

Following Brexit, the GDPR is referred to in the UK as the **EU GDPR**. The UK General Data Protection Regulation (**UK GDPR**) sits alongside the Data Protection Act 2018 (**DPA**) and incorporates the EU GDPR into national legislation. It is broadly similar to the EU GDPR but allows the UK government the flexibility to review and amend its provisions.

The EU GDPR continues to have extra-territorial effect. The EU GDPR may continue to apply to UK controllers or processors who (i) have an establishment in the EU, or (ii) offer goods or services to data subjects in the EU, or who monitor their behaviour as far as their behaviour takes place within the EU. Such organisations are likely to be subject to dual data protection regulatory regimes under the UK GDPR and the EU GDPR.

If an organisation satisfies limb (ii) of the above test, but does not have an establishment within the EEA, the EU GDPR may require that it appoints a representative in the EEA. This representative may be an individual, organisation or company located in an EU or EEA state where some of the individuals whose personal data is being processed are located. Likewise, companies outside the UK that provide goods/services to the UK or monitor people there may need to appoint a representative in the UK.

This means that EU companies may need a UK representative, UK companies may need an EU representative, and companies outside both UK and EU may need both. Practically speaking, whether a representative is required will be a question of fact. The European Data Protection Board (EDPB)'s guidelines on GDPR territorial scope provides helpful pointers on whether a company would be considered as 'offering goods and services' to EU citizens.

Separate regulations govern the sending of electronic mail for direct marketing purposes, as well as the use of cookies, and are similar to the EU regime.

EU Adequacy Decision and Data Transfers

The UK regulator, the Information Commissioners Office (ICO), has approved UK-specific transfer tools (either an International Data Transfer Agreement or a UK Addendum to the EU Standard Contractual Clauses) to govern transfers of UK personal data to Third Countries, i.e. any country outside the EEA, Switzerland, Gibraltar, Iceland, Liechtenstein and Norway. The ICO has published extensive guidance on how to use them:

International data transfer agreement and guidance | ICO. See also the ICO's guidance on Binding Corporate Rules: (A) UK BCR Addendum | ICO

DATA PROTECTION/PRIVACY, CONT'D

New Legislation - The Data (Use and Access) Act 2025 (the "DUAA")

The Data (Use and Access) Act 2025 (the "DUAA") received Royal Assent on 19 June 2025. The DUAA is the new UK Government's version of the former Government's Data Protection and Digital Information Bill ("DPDI Bill"), which lapsed prior to the 2024 general election. The DUAA introduces several amendments to the UK GDPR, the DPA and the Privacy and Electronic Communications Regulations 2003 (PECR), with the intention of making the legal framework more user-friendly and accessible for both individuals and businesses. Some of the more controversial proposals from the DPDI Bill were dropped, helping to ensure that the UK's adequacy status with the EU remained secure. The majority of the DUAA's provisions are being brought into force on a staggered basis through secondary legislation, with full implementation expected by mid-2026.

Some of the most impactful changes introduced by the DUAA include:

- Introduction of "recognised legitimate interests" as a new lawful basis for certain security-related processing activities (such as fraud prevention and public safety), removing the need for a balancing assessment in those cases.
- A "reasonable and proportionate" standard on the controller's obligation to search for personal data pursuant to a data subject access request (this provision came into force on Royal Assent and was applied retrospectively to 1 January 2024) and clarification that the controller's "clock stops" once a request for further information has been issued.
- A new approach to the test for adequacy when transferring personal data outside the UK; the requirement for an "adequacy decision" is replaced by an "approved transfer", The new test is whether the standard of protection in the receiving jurisdiction is not materially lower than the UK regime.
- Narrow the general prohibition on the use of automated decision-making to make decisions significantly affecting data subjects so that it applies only to decisions based on "special category" data, rather than personal data generally. For other personal data, automated decision-making is permitted provided safeguards are in place. These include the rights to human intervention, to contest the decision, and to transparency about the logic used.
- The Information Commissioner's Office will become the Information Commission, a corporate body with wider powers.
- Introduce a framework for the provision of registered digital verification services in the UK.
- Updates the UK's ePrivacy enforcement regime, under PECR bringing it in line with the UK GDPR and DPA . Notably, this increases potential PECR fines to UK GDPR levels.

The DUAA received Royal Assent following extensive parliamentary scrutiny. After significant debate, the AI copyright clauses were dropped from the DUAA, with the Government instead committing to present a report on copyright and AI to Parliament within nine months (by March 2026).

The European Commission renewed the UK's adequacy decisions in December 2025, confirming that the UK's data protection framework (as amended by the DUAA) continues to provide an essentially equivalent level of protection to that guaranteed by the EU GDPR. The renewed adequacy decisions are valid until 27 December 2031.

ARTIFICIAL INTELLIGENCE

As yet there is no specific AI legislation in the United Kingdom. The Secretary of State for Science, Innovation and Technology published an AI Opportunities Action Plan in January 2025 (the "**Action Plan**"), which recommended that the Government commits both immediately and in the long term to securing the physical infrastructure and human capital that will underpin all future AI developments. The Action Plan recommended that the Government collaborate closely with industry, absorb some risk and make significant financial investments in order to be able to compete with fast-moving international developments. The Action Plan recommended the following specific actions:

- **Set out a long-term plan for the UK's AI infrastructure needs**, backed by a 10-year investment commitment, and expand the sovereign compute capacity by x 20 by 2030.
- **Establish 'AI Growth Zones'** (areas with enhanced access to power and support for planning approvals) to accelerate the build of AI infrastructure in the UK.
- **Additional focus** on clean and renewable energy solutions needed to power the increasing energy demands of AI.
- **Agree international compute partnerships with like-minded countries to encourage new research collaborations, compute capabilities** and expand collaboration with existing partners like the EuroHPC Joint Undertaking.
- **Develop and publish guidelines and best practices for releasing open government datasets which can be used for AI and rapidly identify at least five-impact public datasets it will seek to make available to AI researchers and innovators.**
- **Establish a copyright-cleared British media asset training data set**, which can be licensed internationally at scale.
- **Widespread funding of AI education** in order to both grow local and attract international talent, plus targeted international headhunting of elite individuals.
- **Maintain the** UK's current pro-innovation approach to AI regulation and **commit to funding regulators to scale up their AI capabilities. In return, regulators will be required to publish annually how they have enabled innovation and growth driven by AI in their sector.**
- **Reform the UK text and data mining regime so that it is at least as competitive as the EU.** The Action Plan states that the uncertainty around intellectual property is hindering innovation and needs to be resolved urgently. It suggests that the EU has moved forward with an approach that is designed to support AI innovation while also enabling rights holders to have control over the use of content they produce. It recommends that the UK urgently follow this approach.
- **Create a new unit, UK Sovereign AI, with a wide mandate to partner with the private and academic sectors in order to maximise international collaboration.**
- **Continue to invest in and grow the AI Safety Institute to maintain and expand its research on model evaluations, foundational safety and societal resilience research.**

The Government has progressed several of these proposals during 2025, including the establishment of AI Growth Zones and the announcement in October 2025 of a Blueprint for AI Regulation featuring proposed AI Growth Labs (cross-economy regulatory sandboxes). However, a dedicated UK AI Bill did not materialise in 2025 as originally anticipated. Whether specific AI legislation will be introduced in 2026 remains uncertain.

On 4 November 2025, the High Court handed down its judgment in Getty Images (US), INC. and others v Stability AI Ltd [2025] EWHC 2863 (Ch). The Court rejected Getty's secondary copyright infringement claim, holding that the Stable Diffusion AI model did not constitute an "infringing copy" of Getty's copyright works because the model weights did not store or reproduce any visual content. However, Getty's primary copyright claims (relating to the training process itself) were not pursued at trial because the training had not taken place in the UK. The judgment therefore did not resolve the key question of whether UK-based scraping and model training would infringe copyright, leaving that for future cases or legislative clarification. .

ARTIFICIAL INTELLIGENCE, CONT'D

Analysis of the judge's reasoning makes clear the need for a modern legislative structure in the UK that supports both AI development and fair compensation and control for creators.

The Government is required by the DUAA to publish an economic impact assessment and a comprehensive report on the use of copyright works in AI development by 18 March 2026. This is expected to cover, inter alia, technical measures, licensing, transparency, enforcement and AI systems trained abroad. Once the report is published, the UK Government's plans to establish a copyright framework, with greater transparency about works used to train AI models and their outputs, should start to take shape.

Separately, in Thaler (Appellant) v Comptroller-General of Patents, Designs and Trade Marks (Respondent) 2023 UKSC 49, the Supreme Court determined that an inventor within the meaning of the UK's patents legislation must be a natural person and cannot be an AI system, and secondly that the owner of a machine that generates an invention is not thereby per se entitled to apply for a corresponding patent, aside from any other ground on which entitlement may arise.

EMPLOYEES/CONTRACTORS

General: Employment laws provide certain employment rights, such as the right to the National Minimum Wage, to a statutory minimum level of paid holiday, minimum length of rest breaks, Statutory Sick Pay, Statutory Maternity Pay (as well as Paternity Pay, Adoption Pay and Shared Parental Pay) and protection against unlawful deductions from wages. You cannot agree to contract out of these statutory rights.

A written statement of terms of employment: Employers may be liable for a fine of between two and four weeks' pay if employees are not given a statement (before employment commences) setting out their terms of employment (typically contained in an employment contract). There is no similar requirement in respect of a contractor, but it is advisable to put an agreement in place to avoid ambiguity.

Entitlement to notice: After one month's service, employees are entitled to receive notice from their employer of the termination of their employment. The minimum right is to one week's notice, increasing by one week for each complete year of service, up to a maximum of 12 weeks' notice. In practice, companies frequently offer longer notice periods, particularly to more senior employees although it is now rare to see notice periods exceeding 6 months.

EMPLOYEES/CONTRACTORS, CONT'D

Termination of employment: Currently an employee with more than two years continuous service may only be dismissed for one of five prescribed reasons, including redundancy, capability and misconduct. In addition, employers must follow a fair procedure when dismissing an employee. Failure to follow a fair procedure, or terminating employment for a reason other than one of the reasons permitted by law, could lead to a claim for unfair dismissal. Currently an employee with more than two years continuous service may only be dismissed for one of five prescribed reasons, including redundancy, capability and misconduct. In addition, employers must follow a fair procedure when dismissing an employee. Failure to follow a fair procedure, or terminating employment for a reason other than one of the reasons permitted by law, could lead to a claim for unfair dismissal. Significant changes to UK employment law will be phased in over the next couple of years under the Employment Rights Act 2025. The most significant of these changes will be to the law relating to unfair dismissal. With effect from January 2027 the qualifying period for employees to obtain unfair dismissal rights will reduce from two years (the current position as noted above) to six months. In addition, the statutory cap on unfair dismissal compensatory awards (compensation for loss of salary and benefit attributable to the unfair dismissal) will be removed. Currently (2025/26) the compensatory award is capped at the lower of £118,233 and 52 weeks pay. It is anticipated that the number of unfair dismissal claims will increase because of these changes and compensation awards will be greater. In practice, it will be important for employers to carefully assess the performance of new hires within the first six months of employment and determine whether employment should be continued before unfair dismissal rights are acquired.

Protection from discrimination: Employees have the right not to be discriminated against because of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation ("Protected Characteristics"). Compensation in respect of a successful discrimination claim is uncapped. There is no qualifying period before employees benefit from this protection. From October 2024 employers have been required to take "reasonable steps" to prevent the sexual harassment of their employees in the course of their employment. Where the duty is breached, the employee's discrimination compensation can be increased by up to 25%. With effect from October 2026, the Employment Act 2025 (referred to above in relation to unfair dismissal) will extend this positive duty to take "all reasonable steps" to prevent sexual harassment. Regulations which specify which steps are reasonable are to follow. At the same time employers will also be required to "**all** reasonable steps" to prevent third-party harassment in relation to all relevant Protected Characteristics. Whilst this will effect all employers, certain sectors and roles with greater interaction between staff and third parties (e.g. contractors, suppliers, customers and the public) will be particularly impacted.

Intellectual property: As a general rule, the employer will own the copyright, patent rights, and unregistered and registrable designs, in work undertaken by employees in the course of their employment. Conversely, intellectual property in work created by consultants will vest in the consultant by default. It is therefore important to include a specific assignment of intellectual property rights in consultancy agreements.

Confidentiality: During employment, employees are bound by an implied duty of fidelity and good faith, which includes a duty not to disclose the employer's confidential information. Following termination this is limited to trade secrets. This is why it is important to include express confidentiality provisions (particularly covering the period following the termination of employment).

The same duties and limitations are not necessarily implied in relation to consultants, although there may be protection under the general principles of breach of confidence. It is advisable to have robust, express confidentiality obligations which cover consultants' activities both during and following their engagement.

EMPLOYEES/CONTRACTORS, CONT'D

Restrictive covenants: The implied duty of fidelity doesn't apply following the termination of employment. Therefore, an employer may wish to include express contractual restrictive covenants with a view to restricting some of the employee's activities following the termination of employment.

The basic position is that all contractual restraints on a former employee's freedom to work are void and unenforceable unless they can be shown to be no wider than reasonably necessary to protect the employer's legitimate business interests. It is therefore important that restrictive covenants are drafted carefully. Further, an employer who has acted in breach of contract will be unable to enforce a restrictive covenant against an employee.

It may be attractive to place restrictive covenants on a consultant after the termination of their engagement, but restrictions of this kind can suggest that the client has control over the activities of the consultant, which may point towards an employment relationship. It is therefore important to weigh up the commercial importance of such restrictions against the risk of the consultant being found to be an employee.

Self-employed or employee? Engaging someone who is self-employed (as opposed to an employee) may be a commercially attractive option for both parties. However, the fact that an arrangement is documented in this way will not be conclusive as a matter of employment law.

Determining whether someone is self-employed or an employee is complex, involving analysis of several factors, and the reality of the relationship will be key. To make matters even more complicated, there is a third status which is that of 'worker'. Given the complexity of the topic, worker status has not been considered as part of this note.

The self-employed/employee question is a critical one to answer correctly (for both parties) principally because a) some core legal protections only apply to employees, such as the right not to be unfairly dismissed; b) only employees receive benefits such as paid holiday, sick pay and pension contributions and c) the tax treatment of an employee will be different to that of a contractor. There are other reasons too, but these points are usually the key considerations.

CONSUMER PROTECTION

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, the Consumer Rights Act 2015, and the **Digital Markets, Competition and Consumers Act 2024** provide for various aspects of consumer rights. They:

- apply to contract terms and consumer notices to ensure that such terms are fair, transparent and do not give a business an unfair advantage; blacklist and greylist certain contractual terms which are or have the potential to be unfair or prejudicial to consumers (see the section on Terms of Service below);
- give consumers a 14-day 'cooling off period' for most distance contracts and off-premises (usually online) contracts, enabling a consumer to cancel for any reason and get their money back;
- apply to the sale of digital content i.e. downloadable apps, software, games, e-books and music, so that the digital content must match the description, be fit for purpose, and meet quality standards just like physical goods, as well as a ban on fake reviews; and entitle consumers to refunds and repairs at no expense for purchases that do not meet the relevant criteria, provided that the claim is made with the retailer within the specified time-frame.

Consumer Protection Agencies

The primary agencies responsible for consumer protection law are the Competition and Markets Authority (**CMA**) and the Trading Standards Service (**TSS**). The CMA and TSS share enforcement powers with the following notable sector-specific regulators: the Office of Communications (**Ofcom**), the Financial Conduct Authority (FCA) and the Office of Gas and Electricity Markets (**Ofgem**).

Consumers may also bring direct action to enforce consumer rights and protections through the courts. A consumer must bring a claim within six years after the breach of contract.

Other Legislation and Codes of Practice

Below is a non-comprehensive list of selected UK consumer protection requirements and guidelines in the tech sector, which may be relevant to products offered to UK consumers:

- **Code of Practice for Consumer Internet of Things (IoT) Security (2018):** This sets out practical steps for IoT manufacturers and other industry stakeholders to improve the security of consumer IoT products and associated services. There are thirteen guidelines, designed to help protect consumers' privacy and safety. This Code of Practice applies to consumer IoT products that are connected to the internet and/or home network and associated services, including for example: smart cameras, TVs and speakers and wearable health trackers.
- **Product Security and Telecommunications Infrastructure Act 2022 (PSTIA):** This Act and accompanying regulations require mandatory security requirements, to make consumer connectable products more secure against cyber attacks. These impose transparency requirements for security features of such products. The compliance obligations fall on manufacturers, importers and distributors of all connectable products
- **Voluntary code of practice for app store operators and app developers:** In November 2022 (updated Oct 2023), the previous government published a voluntary code of practice to boost security and privacy requirements on all apps and app stores available in the UK.

Advertising and Marketing

These are governed by UK legislation in respect of both B2C and B2B marketing, as well as codes of practice enforced by the Advertising Standards Authority, regulating such matters as misleading advertising, direct marketing, transparency of charges, and inappropriate content, as well as rules governing advertising in specific categories such as health and beauty, gambling, financial, food and alcohol for example. The codes also apply to advertising within web pages and social media. Prize promotions are separately regulated.

The CMA has published guidance for social media platforms, brands, and content creators, to encourage transparency in regard to paid-for endorsements and other content

The **Online Safety Act 2023** imposes obligations on the largest online platforms in relation to harmful and illegal content. Among other things, this includes regulation of advertising and children's safety, with numerous codes of conduct either issued or in development.

TERMS OF SERVICE

Information Requirements and Recommendations
All providers of online services should make the following information available to the users of their service (prominently displayed on the company website):

- The full name of the company. A company's website must include the following information: registered name, number and geographical address (including registered office if different from trading address);
- A means of communication with the company, including an e-mail address, or an electronic enquiry template;
- A list of policies that will apply to a user of the online services such as privacy policy, acceptable use policy, cookies policy.

Contract

- Terms of service are generally enforceable in the UK whether as "click-wrap" or "browse-wrap". Click-wrap is preferable for contractual certainty as the user is automatically bound by these terms.
- The online terms should be displayed or be accessible to users by means of a prominent hyperlink on the website or the app.
- The user must be made aware that they are bound by the terms before completing any purchase.
- It is useful to include acceptance language in the introduction to the terms. Even if this is not effective to create a contract in itself, it may encourage users to comply with the terms.

Consumer Contracts

- UK consumer protection law gives consumers rights and remedies which generally cannot be contracted out of. Any consumer contracts must be drafted so that they reflect the principles of fairness and transparency set out in the Consumer Rights Act 2015, otherwise the terms will be unenforceable and their use may in itself be a breach of consumer protection law. See above for further details on unfair contract terms.
- The following terms are considered to be 'blacklisted', automatically unfair and their inclusion may render a contract invalid:
- attempted exclusion or restriction of liability for death or personal injury caused by negligence; and
- attempts to exclude the implied terms as to (i) the quality of goods or digital content; or (ii) delivery of services with reasonable skill and care.

TAX/FUNDING

Taxation Overview

This section provides an overview of the UK tax considerations relevant to start-ups established using a company. In addition to having limited liability, UK companies are tax opaque and so are taxed separately from their shareholders. Generally, UK taxation is administered nationally (with only certain property and consumer taxes being levied at a regional level by devolved powers).

Currently, UK corporation tax is charged at 19% (for companies with profits under £50,000) and at 25% (for companies with profits over £250,000), with a tapered rate for companies with profits between £50,000 and £250,000. Companies are required to register for corporation tax within three months of commencing trading and must pay corporation tax and file corporation tax returns following the end of their accounting period.

Companies which are tax resident in the UK will be subject to UK corporation tax on their worldwide profits. Companies will be tax resident in the UK if they are incorporated in the UK or if their "central management and control" is situated in the UK. Foreign companies will also be subject to UK corporation tax on trading profits attributable to a "permanent establishment" in the UK and any profits or gains arising from UK land.

The UK has an extensive network of double tax treaties which relieve double taxation by allocating taxing rights between tax authorities which would both otherwise have a claim against a taxpayer. This means that UK corporation tax is broadly territorial in scope i.e. the profits of a UK company which are derived from its economic activity outside the UK (for instance, income arising from a non-UK trading branch) will usually only be subject to tax in the source country.

Non-UK resident subsidiaries of UK companies are not ordinarily subject to UK tax except in certain circumstances, including where income or gains of that company are derived from a UK land or a UK permanent establishment or where anti-avoidance provisions apply (for example where profits taxable in the UK have been shifted to low-tax jurisdictions). In addition, UK companies can generally receive dividend income exempt from UK corporation tax and they can pay out most types of dividends to their shareholders without any withholding or deduction of UK tax. UK companies can also benefit from a tax exemption on capital gains realised on the sale of shares in certain trading subsidiaries (or their holding companies), regardless of where those subsidiaries are resident.

The UK can therefore be an attractive holding company jurisdiction due to its extensive network of double tax treaties, relatively limited scope of withholding taxes, and wide-ranging tax exemptions on profit distributions and gains made on the sale of trading subsidiaries.

The UK's main sales tax is value added tax (VAT) which is chargeable on supplies of certain goods and services. VAT is charged at three rates in the UK: the standard rate of 20%, the reduced rate of 5%, and the zero rate of 0%. The rate of VAT charged depends on the nature of the sale of the goods or services in question. Some types of goods and services are exempted from VAT by law, meaning that no VAT needs to be charged by the supplier. Businesses are required to register for and charge VAT, where relevant, if their taxable turnover exceeds (or will exceed) the VAT registration threshold (currently £90,000). A trading company will typically be able to recover the VAT which it incurs on expenses, where those expenses are directly used to make an onward business supply on which it charges VAT. VAT is therefore normally more of a compliance and cashflow concern for such businesses, and not an additional tax cost.

Companies with employees (including directors) must register for pay-as-you-earn (PAYE) and are responsible for making real time deductions of income tax and employee National Insurance (UK social security) from their employees' salaries through payroll. Employers will also typically be liable for employer's National Insurance contributions based on a percentage of each employee's earnings (where these exceed the relevant threshold) and this is a cost to the employer (and not deducted from employee's salaries).

TAX/FUNDING, CONT'D

Funding Tax Incentives

The UK has a wide range of tax incentive regimes to promote investment in start-ups and mitigate high fixed asset and R&D costs for companies at all stages. In many cases, key investors can also avail themselves of favourable capital gains tax treatment on their disposal of shares in trading companies or groups.

A key funding regime for start-ups is the UK's Enterprise Investment Scheme, which was designed to encourage investment in small or higher-risk start-ups by offering tax reliefs to individual investors who buy shares during a company's initial investing period. Most unlisted trading companies will qualify (including companies carrying out research and development leading to a trade) provided they do not exceed certain employee and asset value thresholds. Investors are required to hold their shares for at least three years and must not already be connected with the company. Very broadly, the scheme allows investors to claim up to 30% income tax relief and to defer any capital gains tax otherwise due on the sale of other assets when they make the investment, and a full exemption from capital gains tax on any gains from the sale of the investment. Inheritance tax relief may also be available for the duration of the investment. Further information is available here Apply to use the Enterprise Investment Scheme to raise money for your company - GOV.UK. An even more advantageous regime, the Seed Enterprise Investment Scheme, is available for smaller and even higher-risk start-up companies.

Many UK companies also establish employee share plans, which incentivise employees and reduce employment costs and may also benefit from valuable tax reliefs. Some employee share schemes require shares to be offered to all qualifying employees in order to be tax-advantaged; for others, participation may be discretionary and enable senior management and key personnel to invest in a tax efficient way. Alternatively, companies may set up employee share plans which do not have tax advantages but which allow the company greater flexibility as to employee participation. The most commonly used tax-advantaged plan for start-up businesses in the UK is Enterprise Management Incentives, which take the form of share options. These incentives can allow qualifying employees to participate in the growth of the business without any up-front tax cost and with the benefit from reduced rates of capital gains tax on an exit event. Businesses are also able to claim tax deductions under the scheme.

UK companies carrying out qualifying innovative research projects in scientific and technological fields may be able to claim R&D credits which can be used to reduce companies' liability to UK corporation tax. For accounting periods beginning from 1 April 2024 the UK's "merged" R&D credit regime applies to all companies engaged in qualifying R&D (the old regime distinguished between large and small and medium-sized enterprises). Companies receive a credit to their pre-tax earnings at a headline rate of 20% of qualifying R&D expenditure. In addition to the main R&D expenditure credit scheme, enhanced tax credits are available for loss-making R&D intensive small and medium-sized companies. The UK also operates a favourable "patent box" tax regime where a company's profits attributable to the exploitation of patents may benefit from a lower 10% rate of corporation tax.

Another key tax relief for companies incurring significant expense on fixed assets are capital allowances. In calculating their taxable profits, businesses cannot make deductions for the depreciation of capital items – however, capital allowances enable companies to deduct the value of qualifying capital assets (for example, equipment, machinery and vehicles) from their profits therefore reducing the amount of corporation tax payable. There are a number of different capital allowances available which companies may claim in their tax return. Further information is available here Claim capital allowances: Overview - GOV.UK



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LEGAL FOUNDATIONS

The United States Constitution and its amendments are the supreme law of the US and set out the powers of federal and state governments. Each US state also has its own constitution. Based on the delegation of powers in the US Constitution, there are federal and state laws, as well as, within states, local laws at multiple levels (county, city/town, etc.). Each of those levels generally has courts and/or judicial or administrative bodies. Federal bills must be passed by both houses of Congress (the House of Representatives and the Senate) and must be signed by the President in order to become law. Each state has its own legislative structures (most are bicameral, with the exception of Nebraska) for the passage of laws, which are only applicable within that state. The United States also has a number of territories (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands and American Samoa, which are permanently inhabited), which are generally also subject to federal law, as well as the local laws of the applicable territory.

Most commercial activity is governed by a combination of federal and state law, since while business operations that are solely within a state would generally be subject to only that state's laws, the authority to "Regulate Commerce…among the several States" was granted to Congress in the US Constitution, so business operations that cross state lines or take place in more than one state would also be subject to applicable federal law.

As a general matter, federal law preempts state and local law in the event of a conflict in areas where there is federal authority. Overall, the US is a common law jurisdiction at all levels, but Louisiana and Puerto Rico both have retained civil law for certain matters.

CORPORATE STRUCTURES

Determining the most appropriate business legal entity for a particular start-up depends on several factors, including the type of business, the number of owners, management control, and as well as taxation and liability issues. The most common entities in the United States are sole proprietorships, partnerships, limited liability companies and corporations. Each entity may be a suitable legal structure for a start-up depending on the overall objectives of the budding business. With limited exceptions (such as national banks), business entities are formed and chartered under state or territorial laws.

A business entity does not necessarily need to be formed in the state or territory in which it does business, but, depending on the specifics of the entity's operations, it may need to register to do business in each state or territory in which it operates.

CORPORATE STRUCTURES, CONT'D

In response to rising concerns regarding illicit financial activities, the Corporate Transparency Act (CTA) was enacted and became effective on January 1, 2024. The CTA authorizes the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) to collect beneficial ownership information for certain legal entities. Following litigation and subsequent regulatory action, FinCEN issued an interim final rule in March 2025 that significantly narrowed the scope of the CTA's reporting requirements. Under this interim rule, entities formed under the laws of the United States (previously referred to as "domestic reporting companies") and US persons are exempt from beneficial ownership reporting. As a result, the CTA currently applies only to certain foreign entities that are formed under the laws of a foreign country and are registered to do business in the United States by filing with a secretary of state or similar office. These foreign entities generally must report beneficial ownership information to FinCEN, subject to applicable exemptions and deadlines, although US persons are not required to be reported as beneficial owners. FinCEN has indicated that it intends to finalize these rules, but further regulatory or legislative changes remain possible.

The typical structures for US entities include:

Sole Proprietorships

A sole proprietorship is the simplest structure as it only involves a single business owner. There is very little paperwork aside from registering a name for the business and obtaining a tax identification number. However, the business assets and liabilities of a sole proprietor are not separate from their personal assets and liabilities. A sole proprietor will generally have personal liability for the debts and obligations of the business. This type of structure is not uncommon at a very early startup or idea stage, or for minimal liability risk business ventures, but is generally not recommended due to the liability issues.

Partnerships

Partnerships are owned by two or more partners (who may or may not be natural persons), and are formed by entering into partnership agreements and, in the case of limited partnerships and limited liability partnerships, registering with the state or territory in which they do business. Partnerships are treated as pass-through entities for tax purposes, so the profits and losses of the business are allocated to the partners' personal income and reported on the partners' personal income tax returns.

There are three common types of partnerships:

- **General Partnership** – All partners share equal rights and responsibilities in connection with the management of the business and the split of profits. However, all partners also are equally and personally liable for all liabilities and obligations of the general partnership.
- **Limited Partnership** – Typically only the partners identified as the general partners have unlimited liability. The other partners, or the limited partners, have limited liability, meaning their personal assets typically cannot be used to satisfy business debts and obligations. Generally, the amount of a limited partner's liability is limited to their investment in the limited partnership.
- **Limited Liability Partnership** – All partners have limited liability, but most states restrict this type of partnership for use by service professionals, such as doctors, lawyers, accountants, architects, etc.

Partnerships, in particular limited partnerships, are most often used for special situations versus operating entities, like film projects and investment funds.

CORPORATE STRUCTURES, CONT'D

Corporations

Corporations are generally considered the standard type of business entity, offering a relatively standard structure and protection to their owners from personal liability. A corporation can be taxed, sued and held legally liable for its debts and obligations. Unlike sole proprietorships and partnerships, corporations are generally separate taxable entities (a so-called "C corporation," which is the default under Internal Revenue Service (IRS) rules and is named for the subsection of the Internal Revenue Code under which it is taxed), and generally pay income tax on their income; double taxation occurs when shareholders receive certain income from the corporation (See "Taxation" below). It is also possible for certain corporations to elect to be taxed as pass-through entities (a so-called "S corporation"), but there are limits to the availability of this option in terms of the nature (natural persons who are US citizens or residents) and number (limited to 100) of shareholders.

Corporations are generally created with a state filing of a certificate or articles of incorporation, and then involve the adoption of bylaws and often a shareholders' agreement, which detail the ownership rights of the shareholders and the framework by which the corporation will be governed. State laws generally specify at least some of the structure, including a board of directors and certain officers of the corporation.

Corporations are generally ideal for businesses that are further along in their growth, looking to raise large amounts of capital from multiple investors as they can raise funds through the sale of their ownership shares (i.e., stock), and is generally preferred by venture capital and private equity.

Limited Liability Company

A limited liability company (LLC) is a hybrid entity that takes advantage of the benefits of both the corporation and partnership business structures. Like corporations, an LLC is a distinct legal entity that is separate from the owners and individuals that manage it. An LLC separates the business assets and liabilities of the company from the personal assets and liabilities of the owners, insulating the owners from being personally liable for the debts and obligations of the company. Additionally, an LLC can enjoy certain tax benefits of a partnership in that profits and losses of the business can be passed through to the personal income of the owners and reported on the owners' personal income tax returns without being reduced by entity-level corporate taxes, and without the limitations of an S corporation; however, an LLC can also opt to be taxed as a corporation.

The creation of an LLC requires a state filing of articles of organization and the execution of an operating agreement, which outlines the rights of each owner with respect to the management and ownership of the LLC. LLCs offer significant flexibility, since they are essentially governed by contract (the operating agreement), and the structure can be easily adjusted to allow for different management, profit and loss, and preference structures.

LLCs can be a good choice for businesses that want to have the protections of a corporation, but may want to offer certain tax benefits of a partnership (such as issuing profits interest to employees and profit and loss pass-through as noted above) or have complex or international ownership structures.

CORPORATE STRUCTURES, CONT'D

Other Structures

Benefit Corporations: Benefit corporations (sometimes called "B Corps") are entities that exist under certain state laws, and are designed include in their mission the interests of multiple stakeholders other than just shareholders, including employees, the community, and the environment. The need for benefit corporations arose from the challenges of traditional corporate structure that focused on maximizing shareholder returns, and resulted in caselaw that penalized companies and the leadership for addressing social and environmental issues that may reduce shareholder profits. Benefit corporations were designed to allow businesses to include in their mission purposes beyond benefit to shareholders/corporate profit. In general, benefit corporations are mission-oriented (or include mission-driven purpose), and try to address transparency and stakeholder accountability, while also generating shareholder profits.

Low-Profit Limited Liability Companies: Low-Profit Limited Liability Companies (referred to as an "L3C") are similar to B Corps in that they are a hybrid entity that combines the financial benefits of a traditional for-profit entity with the social benefits of a nonprofit, and are provided for under the laws of only a few states. L3C's are designed to receive most of their funding from charitable foundations through program-related investments (PRI). In order to receive a PRI, an L3C must satisfy three requirements imposed by the Internal Revenue Service: (i) it significantly furthers the accomplishment of one or more charitable or education purposes within the meaning of the Internal Revenue Code, (ii) it does not have as a significant purpose the production of income or appreciation of property, and (iii) it does not have as a purpose the accomplishment of one or more political or legislative purposes.

Trusts: In some instances, trusts can be used in the formation or holding of business ventures. This is often done for succession and tax planning purposes, as well as in the context of certain foreign investments, but trusts may also be used to ensure that the operation of the business is in line with certain purposes, similar to benefit corporations (e.g., as an employee benefit trust). The use of trusts is generally more complicated than the other structures, and can have significant tax and legal consequences.

ENTERING THE COUNTRY

The US has regulations with respect to foreign investment in certain industries. Those are generally covered under the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) (which updated prior law and regulation) and subject to review by the Committee on Foreign Investment in the United States (CFIUS).The general focus is on businesses and industries that relate to critical industries and national security risk, including access to and transfer of sensitive technology, intellectual property, and personal data, as well as certain types of real estate and critical infrastructure.

It is also worth noting that the US has complex immigration requirements, so if the intent is to reside in the US to operate the business, a visa that allows those business activities would likely be required.

U.S.A

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INTELLECTUAL PROPERTY

US law generally recognizes the following types of intellectual property as registrable:

Copyright

What is protectable? The US Copyright Act protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. The rights of the author exist at the time the work is created and fixed in tangible form, and registration is not required; however, registration with the US Copyright Office can provide presumptive evidence of ownership, and also provides certain statutory rights from the time of registration, as well as the right to sue for infringement, which are not available absent registration.

Where to apply? Copyright applications are filed with the US Copyright Office.

Duration of protection? For works created after January 1, 1978, the term of copyright is the life of the author plus 70 years; for joint works copyright lasts until 70 years after the death of the last surviving co-author. For works made for hire (see Question 6) and anonymous or pseudonymous works, the term of copyright is the shorter of 95 years from publication or 120 years after creation.

Costs? The current basic copyright registration fee per work is $45 for an online single application (single author, one work, not for hire), and $65 for all other works filed online; for paper filings, the cost is $125 per work. Additional fees may apply for other services, and a complete and up-to-date list of fees can be found on the US Copyright Office Website.

Patents

What is protectable? A utility patent protects a "new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereto;" a design patent protects a "any new, original, and ornamental design for an article of manufacture;" and a plant patent protects a "distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber-propagated plant or a plant found in an uncultivated state," that is invented or discovered and asexually reproduced. To be potentially patentable, an invention must be new (also called "novel"), useful, and non-obvious to a person of ordinary skill in the art.

Where to apply? Patent applications, including so-called provisional patent applications (a lower-cost and faster initial filing that doesn't require formal patent claims, nor an oath or declaration that can hold the filing date, but that only is effective for 12 months) must be filed with the United States Patent and Trademark Office (USPTO).

Duration of protection? For patent applications filed on or after June 8, 1995, the term of protection for patents (other than design patents) is 20 years from the date of application; design patents filed on or after May 13, 2015, have a term of 15 years from the date of grant.

Costs? The filing fees for patents depend on the type of patent, the number of independent claims in the patent application, and the size of the entity applying for the patent. The USPTO has reduced fees for small entities and micro entities, and the application and filing fees can be as low as $44 for a design patent application by a micro entity, but are generally a few hundred dollars for most patent applications. Maintaining a patent also requires paying regular maintenance fees.

INTELLECTUAL PROPERTY, CONT'D

Trademarks

What is protectable? A trademark (or service mark) is any word, phrase, symbol, design or combination that identifies the source of the particular goods or services, and is used to distinguish that source of goods or services from other sources or similar goods or services. Common law trademarks, established by use in commerce of the particular mark, are also recognized in the US, but registration provides significantly greater protection and potential remedies for infringement.

Where to apply? Trademarks can be filed with the United States Patent and Trademark Office, and a majority of US states also allow state trademark registrations by filing with offices in the particular states; the scope of protection granted by a state trademark registration is limited to that specific state, so state trademark filings are not common. The United States is a party to the Madrid Protocol, so filings through World Intellectual Property Organization (WIPO) under the Madrid System are recognized.

Duration of protection? Once a trademark is registered, filings are required to maintain the registration and confirm ongoing use in commerce between the fifth and sixth years after registration, between the ninth and tenth years, and every ten years thereafter. The duration of state registrations varies by state.

Costs? Application costs for US federal trademarks submitted online is either $250 or $350 per class of goods or services, depending on the type of application filed. The costs of state trademark applications vary by state.

Trade Secrets

The US also generally recognizes trade secrets, at both the federal and state levels, though trade secrets are not subject to registration.

What is protectable? Trade secrets generally protect confidential business information the commercial value or competitive advantage of which is derived from its confidentiality. In order to be protectable as a trade secret, the information must not be generally known to the public, and must have been subject to reasonable measures to maintain its secrecy, including imposing non-disclosure obligations (either by law or contract) on parties to whom the information is disclosed.

How are trade secrets protected? Trade secrets are protected under both federal and state laws, through a combination of statutory and common law protections. The federal Defend Trade Secrets Act of 2016 allows the owner of a trade secret to sue for misappropriation in federal court. The Uniform Law Commission developed the Uniform Trade Secrets Act (UTSA), which has been adopted, at times with modifications, by 49 states and a number of territories; New York relies on common law trade secret protection.

Duration of protection? Trade secret protection can last indefinitely, for so long as the information remains secret.

DATA PROTECTION/PRIVACY

The US does not have a comprehensive federal data protection or privacy law, so privacy is addressed through a patchwork of hundreds of federal, state, and local laws and ordinances, and new laws are being enacted regularly. As a general matter, federal privacy laws will pre-empt inconsistent state laws unless the federal law includes an exemption (often with the federal law setting a floor, but allowing higher state standards).

No federal law comprehensively addresses data breach notification (some of the sectoral laws do have requirements), but all 50 states and some of the territories have data breach notification laws with respect to certain categories of personal data.

While there are no general data localization requirements or transfer restrictions in the US, a number of laws and regulations limit transfers of personal data in certain contexts (such as large volumes/"bulk" or certain sensitive data) to China and certain other "Countries of Concern" (currently, Cuba, Iran, North Korea, Russia and Venezuela) and certain persons associated with those countries.

A number of states, beginning with California in 2018, have passed comprehensive privacy acts that address the protection of the personal data of their residents. While the California laws are somewhat unique in structure and requirements, the other state laws are more similar to the EU's General Data Protection Regulation (GDPR). Of note, most of these laws do not cover employee data and have company size and revenue thresholds. There are also multiple federal, state, and local sectoral data protection laws addressing areas like health, financial, children's and biometric data.

These laws are generally enforced by either various federal agencies, the attorney general of the state in question, or in California, by the new California Privacy Protection Agency, though with respect to a number of federal laws, there are a number of agencies – including the Federal Trade Commission, Department of Commerce, Department of Health and Human Services – Office of Civil Rights, and others.

The following outlines some of the key or indicative federal and state laws, but is not comprehensive given the hundreds of laws, rules and regulations that have been enacted.

Federal Sectoral Laws

Children

- **Children's Online Privacy Protection Act (COPPA):** Addresses websites and online services that target children. Requires clear notice of the data collected. If the child is under 13 years of age, the law requires parental consent to collect their personal information.

Education

- **Family Educational Rights and Privacy Act (FERPA):** Applies to all education institutions that receive federal funding. FERPA ensures privacy protections for students and their education records. Including academic, disciplinary, and financial records. Student health records are subject to FERPA, unless the school does not receive federal funding. If the school does not receive federal funding, the student's health record may be subject to HIPAA.
- **Every Student Succeeds Act (ESSA):** Limits the disclosure of student personal information.

Financial Data

- **Gramm-Leach-Bliley-Act (GLBA):** Regulates the collection, use and protection of personally identifiable financial information provided by a consumer.
- **Fair Credit Reporting Act (FCRA):** Protects use of personal information by private businesses and requires accurate data in consumer reports.
- **The Fair and Accurate Credit Transactions Act (FACTA):** Regulates how businesses providing credit scores interact with consumers.

DATA PROTECTION/PRIVACY, CONT'D

Federal Sectoral Laws, CONT'D

Healthcare

- **Health Insurance Portability and Accountability Act (HIPAA):** Created to protect individual's health information, and its regulations include specific and proscriptive requirements relating to the use and protection of patient. Applies to health plans, healthcare clearinghouses, and healthcare providers.
- **Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH):** Strengthened HIPAA and includes new requirements regarding data minimization, increased penalties for violations, notice of breach and electronic health records.
- **Confidentiality of Substance Use Disorder Patient Records Rule:** Provides privacy protections for individuals seeking care for alcohol and substance abuse.
- **Genetic Information Nondiscrimination Act of 2008 (GINA):** Protects information related to genetic testing and prohibits employers from discriminating against an individual due to their genetic health information. Healthcare providers are prevented from implementing higher premiums or denying coverage based on genetic health information.

Marketing and Telecommunications

- **Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM):** Regulates how commercial emails are marketed to consumers, including opt-out requirements.
- **Telephone Consumer Protection Act (TCPA):** Regulates the use of telephone, fax, text message or robocalls for marketing purposes. This law allows for class action and statutory damages for violation, and has led to many multi-million dollar judgements and settlements.
- **Telecommunications Act of 1996:** Restricts access, use and disclosure of customer proprietary network information, which is information collected by telecommunications carriers related to subscribers.
- **Telemarketing Sales Rule (TSR):** Places a prohibition on telemarketers and issues guidelines of how telemarketing can be conducted.
- **National Do Not Call Registry (DNC):** Falls under TSR, telemarketers must access the DNC registry before placing a telemarketing call. Telemarketers must also update their call lists every 31 days.
- **Video Privacy Protection Act of 1988 (VPPA):** Allows consenting users to share viewing information within social media accounts. Consent is valid for two years.

Consumer Protection

- **Federal Trade Commission Act (FTC Act):** While not specifically a privacy or data protection law, the FTC Act's prohibition against "unfair or deceptive acts or practices in or affecting commerce" (described in more detail under Question 7 below) is used regularly by the Federal Trade Commission to address privacy and security issues with respect to the processing of consumer personal data.

State Comprehensive and Sectoral Laws

As noted above, many states and localities have filled the vacuum from a lack of comprehensive federal privacy and data protection law. As of completion of this summary, eighteen states have comprehensive privacy laws, though they are not consistent in their scope (e.g., currently only California broadly covers employees). Below are some (but by no means all) of the key state laws (some comprehensive, some sectoral) that may impact businesses operating in the US:

California

- **California Consumer Privacy Act (CCPA):** Implements comprehensive privacy and data protection requirements, including notice, protection, processor (service provider) requirements and individual rights for California residents, but differs from the GDPR (and other comprehensive US state privacy laws) in a number of key ways, including allowing the opt-out to transfer of personal information to certain third parties and treating those transfers as a "sale" of personal data.
  - It was amended by the California Privacy Rights Act (CPRA), which expanded consumer rights, including providing new categories of sensitive personal information. The CPRA created the California Privacy Protection Agency (CPPA), the first dedicated US privacy regulator, and expanded the opting out of "sale" of personal information to expressly address the "sharing" of personal information for behavioral advertising.
- **Delete Act:** Supplements California's existing data broker registration law, and creates a single request system for individuals to request that all data brokers delete the individual's personal information that each maintains.

DATA PROTECTION/PRIVACY, CONT'D

State Comprehensive and Sectoral Laws, CONT'D

Colorado

- **Colorado Privacy Act:** Generally modeled on the GDPR, the CPA is a comprehensive privacy law that addresses the processing of personal data of Colorado residents, but excludes certain personal data by role (e.g., employment or commercial context, though now includes certain employee biometric data).

Connecticut

- **Connecticut Data Privacy Act:** Generally modeled on the GDPR, the CDPA is a comprehensive privacy law that addresses the processing of personal data of Connecticut residents, but excludes certain personal data by role (e.g., employment or commercial context).

Illinois

- **Biometric Information Privacy Act (BIPA):** Addresses the use, collection, disclosure, and retention of biometric information. The law allows for class action and statutory damages, and violations have resulted in many multi-million dollar judgements and settlements.

New York

- **Automated Employment Decision Tools:** New York City has adopted a law that prohibits employers from using artificial intelligence for recruiting, hiring, or promoting employees without conducting an audit for bias (also see AI below).
- **New York Stop Hacks and Improve Electronic Data Security Act (NY SHIELD ACT):** Amends New York's Information Security Breach and Notification Act. The SHEILD Act is a security law, which requires companies to develop, implement and maintain reasonable security measures to protect private information.

Virginia

- **Virginia Consumer Data Protection Act:** Generally modeled on the GDPR, the VCDPA was the second comprehensive privacy law passed on the US, and addresses the processing of personal data of Virginia residents, but excludes certain personal data by role (e.g., employment or commercial context).

ARTIFICIAL INTELLIGENCE

There is currently no national regulatory regime for AI in the US, but there are numerous federal and state initiatives and potential legislation under consideration, and a number of states and localities do have AI-related laws.

Law and Regulation

On October 23, 2023, President Biden issued an "Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence," which, although it did not apply directly to businesses, directed various US government departments and agencies to evaluate AI technology and implement policies and procedures regarding adoption and use of AI. In addition to directing the National Institute of Standards and Technology (NIST) to establish guidelines, standards and best practices for AI safety and security, it directed agencies with enforcement authority to enforce existing consumer protection laws and principles to protect potential harms driven by use of AI. The executive order was rescinded by President Trump shortly after taking office in January 2025, who has since issued a number of executive orders reducing regulatory oversight of AI and authorizing federal agencies to investigate and challenge state laws that regulate AI.

At the state and local level, there are a number of laws regulating certain aspects of AI, some of which are included as part the comprehensive privacy laws in those states. The following describes a few of the state and city laws and ordinances, but is not comprehensive, and new legislation is under consideration across the country.

- **First Broad AI Law:** Colorado, on May 17, 2024, became the first state to have enacted a broad AI law, the Colorado Artificial Intelligence Act (Colorado AI ACT), which is currently scheduled, after being delayed, to come into effect on June 30, 2026. The Colorado AI Act takes a risk-based approach to preventing algorithmic discrimination, and focuses on AI systems that make "consequential decisions," such as those relating to education, employment, financial and insurance services, governmental services, health care, housing and legal services. It imposes various obligations on developers and deployers of high-risk AI systems, including disclosure, risk analysis and mitigation, governance, addressing adverse decisions, documentation, and AI impact assessments. The act does have a number of exemptions for deployers based on factors such as size and control over particular AI systems. The Colorado AI Act is enforced by the Attorney General under the state's unfair trade practices law, and does not provide for a private right of action.
- **Extension of Privacy Laws:** In California, the CCPA provides consumers with the right to opt out from the use of automated decision-making technologies to process their personal information, and the CPPA issued proposed additional regulations that include provisions related to automated decision making. Similarly, though differing in specifics, other state laws provide individuals with certain rights to opt out of the use of their personal data for automated decision-making. Under some of the laws, as processing for automated decisions is deemed to present a heightened risk of harm to individuals, the controller may be required to conduct a data protection assessment with respect to these types of processing activities.
- **Foundational AI Developers:** California's Transparency in Frontier Artificial Intelligence (TFAI) Act and New York's Responsible AI Safety and Education (RAISE) Act focus on managing the risks of foundational AI, and require large developers of those AI models to implement and disclose safety measures, conduct risk assessments, and promptly report incidents.
- **Employment-Related Automated Decision-Making:** New York City's Automated Employment Decision Tools (AEDT) law, regulating the use of AI in hiring, has attracted national attention, and has influenced the proposal of similar bills in a number of states and localities. The law prohibits employers and employment agencies from using automated employment decision tools without conducting an audit for bias, and requires that candidates residing in the city be notified about the use of AI in decisions concerning hiring and promotion.

ARTIFICIAL INTELLIGENCE, CONT'D

Authorship/Creation of Intellectual Property

The US Copyright Office and USPTO have taken the positions, respectively, that AI cannot be an author of a copyright nor an inventor of a patent. As of the preparation of this summary, case law in the area has affirmed the offices' positions that a sufficient degree of human input is required for creative works and inventions to be protectable under applicable law.

EMPLOYEES/CONTRACTORS

Many employment issues, standards and requirements are governed by overlapping federal, state, and local laws and regulations. For example, on the federal level, the Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector. Each jurisdiction additionally has its own state and local employment and labor laws and regulations, which can vary significantly by state and even by locality within states. Employers must apprise themselves of what laws apply to them with regard to the location from which their employees work, a task that can be particularly challenging with a remote workforce. Employment and labor requirements, laws and regulations on the federal, state, and local levels change for a variety of reasons, and this overview does not address all applicable laws, regulations, requirements, or circumstances and is not intended to constitute legal advice. It is recommended to consult with counsel regarding any questions.

Termination: Employment relationships may be designated as "at will" in most jurisdictions. This means that the employee may terminate his/her/their employment with the employer at any time and for any legal reason simply by notifying the employer. Likewise, the employer may terminate the employee at any time, for any legal reason, with or without cause or advance notice. However, some jurisdictions may have restrictions, exemptions or circumstances where employment "at will" is limited or cannot apply. Employers should consult with counsel and include in their offer letters, employment agreements, employee handbooks, or other written documents when employees are (or are not) considered to be "at will" where appropriate or as required by applicable law.

Employee Protections: In addition to wage and hour laws, Federal, state, and local laws and regulations provide various protections for employees, such as protection against discrimination, protection against retaliation, and right to pay equity with other performing similar work. These protections vary by state and locality; as with wage and hour laws, employers must apprise themselves of what laws apply in the locations where workers are performing the work. Workers are also entitled to engage in certain concerted activities (i.e., unionizing) and to report wrongdoing to legal authorities (i.e., whistleblowing) without retaliation.

Employee/Independent Contractor: Important legal distinctions (such as tax implications) and responsibilities may arise when classifying an individual as an "employee" or an "independent contractor". Employers and workers do not have free reign to deem a relationship an "independent contractor" relationship; each jurisdiction may rely on a set of applicable factors and tests to determine whether an individual should be classified as an "employee" or an "independent contractor". Misclassification of an employee as an independent contractor can result in consequences under both federal and state laws. It is important to note that on January 10, 2024, the U.S. Department of Labor published a final rule, effective March 11, 2024, that revises the Department's guidance on how to analyze who is an employee or independent contractor under the FLSA. This final rule rescinds the Independent Contractor Status Under the Fair Labor Standards Act Rule, which was published on January 7, 2021.

EMPLOYEES/CONTRACTORS, CONT'D

Ownership of Work Product: As a general matter, copyrightable works created by employees in the course of employment are owned by the employer. The Copyright Act provides that a copyrightable work created in the course of employment is a "work made for hire" for the employer, and that the employer (and not necessarily the employee-creator of the work) is deemed to be the author. With respect to inventions and patents, the law is more complicated and nuanced. It is recommended to include IP/invention assignment and cooperation requirements even for employees who are not involved in activities that could result in the creation of copyrightable materials and the development of patentable inventions to avoid issues that could arise later. With respect to independent contractors, works and inventions are generally deemed owned by the contractor rather than the person who engages the contractor, so it is necessary in the agreement with the contractor to specify ownership of the intellectual property if the intent is that the company, rather than the contractor, owns the intellectual property; note that not all copyrightable works can be "works made for hire" under the Copyright Act (which defines which works not made by employees can be works made for hire), and that deeming a contractor's works "works made for hire" may result in unintended employment consequences under certain state laws, so caution should be exercised in using work for hire rather than assignment.

Restrictive Covenants: Employers may want to obtain worker agreement to certain restrictions, such as non-competition and non-solicitation covenants. While there is currently no federal law directly governing these types of covenants, many states have statutes and court decisions that limit the enforceability of restrictive covenants, and some impose penalties on employers that run afoul of legislative requirements. This is a rapidly changing area of law, with more and more states enacting legislation in this area.

Taxes: Employers are generally responsible for withholding certain US federal and state income taxes, as well as Social Security, Medicare, additional Medicare, and US federal and state unemployment taxes, from employees and remitting those payments to the IRS. With respect to independent contractors, there may also be certain reporting requirements in additional to withholding requirements with respect to payments if specific tax documentation (i.e., an applicable IRS Form W-8 or IRS Form W-9) is not provided by the contractor.

CONSUMER PROTECTION

Consumer protection in the US is addressed by federal, state, territorial and local laws and regulations, and each jurisdiction tends to have its own consumer protection framework and enforcement authority. This ranges from the Federal Trade Commission to municipal departments of consumer affairs or protection. The specifics differ by jurisdiction, but they generally address "unfair or deceptive acts or practices in or affecting commerce" (Section 5 of the Federal Trade Commission Act (FTC Act), and many of the laws allow enforcement by multiple authorities (various agencies and attorneys general).

The FTC Act allows the Federal Trade Commission (FTC) to investigate and initiate an enforcement action, under either administrative or judicial processes, if there is reason to believe that the FTC Act, or another law enforced by the FTC, has been violated. The FTC also periodically issues written guidance on practices that it views as appropriate or potentially deceptive or unfair. Under state consumer protection laws, sometimes called "baby FTC acts", the state authorities have similar powers of enforcement with respect to residents of their state for violation of their consumer production laws.

In addition to the FTC Act and some of the federal laws noted above under Question 5, some of the other consumer protection-related laws include:

- **Consumer Product Safety Act:** A federal law that creates safety standards for consumer products, prohibits the sale of certain hazardous goods, and establishes recall requirements for unsafe products.
- **California Consumer Legal Remedies Act:** A consumer protection law that prohibits unfair or deceptive practices, and provides for damages and injunctive relief to consumers for violations. Similar laws exist in most states.
- **New York General Business Law:** The New York General Business Law contains a number of provisions relating to consumer protection, including prohibiting unfair or deceptive trade practices and false advertising, and providing certain requirements for consumer contracts.

These laws may include certain disclosure and contractual requirements or limits on certain activities (such as automatic renewal), depending on the nature of the commercial activity, and also address advertising and marketing practices, including the types of statements that can be made about products and services, and the use of both celebrity and individual product endorsements (e.g., paid or compensated (such as with free product) reviews).

There are also multiple consumer protection organizations and groups, such as the Better Business Bureaus and BBB National Programs, Inc., that both educate and monitor consumer protection, which may include making referrals to regulatory and enforcement authorities.

TERMS OF SERVICE

In general, while so-called "click-wrap" terms of service – which involve the individual taking at least one active step to accept the terms – are generally enforceable in the US, "browse-wrap" terms of service – where the terms are posted on the site but no affirmative action is taken to acknowledge or accept them - are often not enforceable or their enforceability is limited to specific terms that the individual should have expected or where there was specific notice provided.

In addition, key terms with respect to consumer protection, liability, and enforcement – such as binding arbitration – have been found by some courts to be unenforceable even in clicked-through terms if the terms were buried in the terms of service, not clearly and conspicuously stated, or otherwise difficult for the individual to have been aware of.

TAX/FUNDING

Taxation

US startups are typically organized as C or S corporations (see "Corporations" above) or limited liability companies (see "Limited Liability Companies" above), depending on their structure, the nature of their business, and the nationality of their owners.

Whether the startup is organized as a C corporation, S corporation or limited liability company, US startups are subject to US tax on their worldwide income, subject to applicable tax treaties which may reduce or eliminate tax on payments of dividends, interest, capital gains, and other items. A foreign tax credit may be available to offset the amount of foreign taxes paid on such income.

C corporations generally pay income tax at the entity level at a rate of 21% on their income. Double taxation occurs at graduated rates, with a top marginal rate of 20% (with the potential for an additional 3.8% Net Investment Income Tax as well), when shareholders (i.e., the owners) receive income from the corporation in the form of dividends and report such income on their personal tax returns.

Additionally, startups that are organized as C corporations that own foreign subsidiaries are subject to an anti-deferral regime that may require current US tax on their foreign subsidiaries' worldwide income if they are not subject to sufficient foreign tax under the relevant US tax rules.

US-resident individuals (in the case of a startup organized as a pass-through entity) and entities are generally taxed at both the federal and state (and sometimes local) levels, with the amount and nature of the taxes dependent upon various factors, including the individual's or entity's residence, days of presence in a particular state, source of gross receipts, and location(s) of operations and business assets.

Non-resident individuals and entities are generally only subject to US federal tax on income that is "effectively connected" with a US trade or business and certain payments of US-source passive income (known as FDAP; for example, US-source dividends, interest, and rental income). Such payments are subject to a withholding tax of thirty percent (30%), which may be reduced or eliminated if the recipient claims an exemption from withholding or treaty benefits by providing an IRS Form W-8BEN or W-8BEN-E, as applicable, to the payor.

While there is no general value-added tax or equivalent in the US, most states and some localities have sales tax obligations for both resident and non-resident entities based on such entity's business activities within the state. These sales tax obligations may vary significantly by consumer location, and may also differ based on the nature of the particular good being sold, with some being exempt from taxation in certain jurisdictions.

TAX/FUNDING, CONT'D

Funding and Incentive Programs

There are several financing options for startup companies that offer various advantages and trade-offs. The best choice depends on the startup's stage, industry, and goals. Below is a discussion on the most typical options, plus suggestions for potentially helpful resources.

Loans
Loans are a common financing option where the startup can borrow money from a financial institution or lender and repay it with interest over time. The loans can be short-term or long-term, and the loan amount typically depends on creditworthiness and the startup's potential. Common types of loans include Small Business Administration (SBA) loans (see www.sba.gov/funding-programs/loans) and traditional bank loans. While loans do not require giving up equity, they come with the risk of debt repayment, which can be a challenge if the business faces difficulties.

Grants
Grants are non-repayable funds given by government agencies, private foundations, or corporations. They are highly competitive and typically awarded to startups with innovative ideas, specific social impacts, or research and development goals. Grants can be an advantageous way to obtain funding without the obligation of repayment, but they often require significant time and effort to apply for, as well as sometimes requiring grantees to obtain matching funds in order to access grant funds. For additional information, see, for example, www.grants.gov.

Angel Investors
Angel investors are wealthy individuals who provide capital to startups in exchange for equity or convertible debt. They often invest in early-stage businesses and bring not only money but also expertise and mentorship. While angel investors can be a valuable source of funding, they typically seek a significant return on investment and may take an active role in the business. For additional information, see, for example, www.angelcapitalassociation.org.

Venture Capital
Venture capitalists (VCs) are professional investors or firms that provide capital to high-growth startups in exchange for equity. VCs usually invest in businesses that are in their growth stages and have a proven business model. They provide significant funding and strategic support, but they also seek a high return on their investment, often involving decision-making control in the company. VC funding is best suited for startups with a scalable product or service that can grow rapidly. For additional information, see, for example, www.nvca.org.

Crowdfunding
Crowdfunding involves raising small amounts of money from a large number of people, typically through online platforms like Kickstarter (www.kickstarter.com). This method allows startups to gauge market interest while generating funds. In return, backers may receive rewards, pre-orders, or equity in the company (depending on the platform). Crowdfunding is ideal for consumer-facing products but requires a strong marketing strategy and can be time-consuming.

Incubators
Startup incubators provide early-stage companies with resources such as office space, mentorship, networking opportunities, and sometimes funding. They help startups refine their business models and develop their products. In exchange for support, incubators may take equity in the company. Incubators are beneficial for startups seeking guidance and access to industry expertise while benefiting from a collaborative environment. For additional information, see, for example, www.inbia.org.

WHAT ELSE?

Limited Liability for Online Intermediaries

Section 230 of the Communications Decency Act of 1996 (CDA) of 1996 provides certain legal and liability protections for internet service providers and online platforms with respect to the content posted by third parties. While Section 230 is currently being challenged from multiple directions – including (at time of preparation of this summary) pending cases in front of the Supreme Court – it remains in effect.

Under Section 230, online platforms and internet service providers are not considered the publisher or speaker of third party (user-generated) content that is transmitted on or though their services, which means that they cannot generally be held liable for the substance of that content, granting them broad immunity from liability for that content. In addition, those platforms and providers are allowed to moderate or filter content without that act creating liability, which enables platforms to enforce acceptable use and content policies that remove objectionable content (such as defamation, hate speech and false or misleading information) or content that otherwise violates their terms of service.