



Doing business in Costa Rica

A comparative guide

July 2023

A guide to doing business in Costa Rica

Deloitte Legal compiled this guide for Legal 500, providing an overview of the laws and regulations on doing business in a variety of jurisdictions. The following country chapter contains the relevant information on the systems of law, the legal forms through which people carry out business, capital requirements, how entities are operated and managed, expansion possibilities, corporate governance, employment law and more.



No.

Question

A. Legal system and landscape

1

Is the system of law in your jurisdiction based on civil law, common law or something else?

Civil Law, based on the French and Spanish civil law tradition.

B. Entity establishment

2

What are the different types of vehicle / legal forms through which people carry on business in your jurisdiction?

Under the Code of Commerce (1964) the following vehicles are authorized:

- Corporation ("*Sociedad Anónima*")
- Limited Liability Company ("*Sociedad de Responsabilidad Limitada*")
- General Partnership ("*Sociedad en Nombre Colectivo*")
- Limited Partnership ("*Sociedad en Comandita Simple*")
- Joint Stock Company ("*Sociedad en Comandita por Acciones*")
- Individual Limited Liability Company ("*Empresa Individual de Responsabilidad Limitada*")

3

Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?

Yes, although it is not practical, as many transactions require a local structure or the registration of a local power of attorney to bind the foreign entity.

The registration of a power of attorney or a local branch ("*sucursal*") is the easiest way to proceed. It requires the foreign company to appoint a local representative, register certain basic information on its foreign structure and expressly state that it abides to the laws and courts of Costa Rica pertaining to any transactions conducted under the POA or branch.

4

Are there are any capital requirements to consider when establishing different entity types?

There is no legally required minimum capital for local entities, although a value for capital is required for registration purposes. It is normal for entities to be incorporated with a capital stock of CRC10.000 (less than US\$20). The registration of a capital represented in certain foreign currencies is valid, only if the entity is established as a Corporation. Local law require that Limited Liability Companies register their capital in local currency. .

5 How are the different types of vehicle established in your jurisdiction? And which is the most common entity / branch for investors to utilize?

Most commonly used vehicles are Corporations (*Sociedad Anónima*) and Limited Liability Companies (*Sociedad de Responsabilidad Limitada*)

In general, the basic information to be provided and registered is the following:

- Identity of partners/shareholders (no citizenship requirements apply)
- Name of the entity
- Term/duration of the entity
- Capital allocated to entity expressed in Costa Rican Colons, U.S. Dollars, or Euros (Local law require that Limited Liability Companies register their capital in local currency).
- Division of capital participations among partners (quotas) or shareholders (shares)
- Characteristics of such capital participations (type, par value, issuance formalities, transfer restrictions, voting and dividends rights, etc.) According to the rights they grant, shares may be classified into common or preferred shares.
- Terms of partners'/shareholders' liabilities
- Shareholders' liability is limited to their capital contributions.
- Management structure (board, management committee, etc.)
- Identity of officers and directors
- Identity of statutory comptroller (only for Corporations)
- Other governance issues

6 How is the entity operated and managed, i.e., directors, officers or others? And how do they make decisions?

Corporations:

Corporations are managed by a Board of Directors (who may also be shareholders).

They may be appointed for a fixed term or indefinitely.

Boards are composed of at least three officers: President, Secretary and Treasurer (no citizenship/residency requirements apply)

The President shall always be vested with the legal representation of the company, although other officers/individuals may also be appointed as attorneys-in-fact of the company.

Depending on the Articles of Incorporation, decisions are made through voting at the level of shareholders and/or board members. Attorneys-in-fact may also bind the company with their acts, subject to the limits of their vested authority.

Limited Liability Company:

LLCs are managed by one or more managers (who may also be partners).

They may be appointed for a fixed term or indefinitely.

The administration and representation of the company corresponds to one or more managers.

7 **Are there general requirements or restrictions relating to the appointment of (a) authorized representatives / directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?**

No such limitations. Other than special powers of attorney, all appointments should be registered with the Costa Rican Public Registry for their validity.

8 **Apart from the creation of an entity or establishment, what other possibilities are there for expanding business operations in your jurisdiction? Can one work with trade /commercial agents, resellers and are there any specific rules to be observed?**

Yes, consortium and joint venture agreements are also possible. However, it is understood in such cases that foreign company representatives will act in their own name as no legal representation can be evidenced at a local level, vis-à-vis third parties, due to the lack of local registration.

C. Entity operation

Please answer the following questions only for the most common entity / ies within your jurisdiction:

C1. Governance

9 **Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.**

The only corporate governance requirements apply for the protection of minority shareholders. In summary, certain acts specifically defined in the law will require proof that the board of directors of the corporation has authorized the company's representative to act in such manner. In general, companies may issue their own corporate governance codes which, naturally, must conform to any and all local laws and regulations.

C2. Capital

10 **What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.**

Any modality of capital funding must be properly entered in company books. The most common options to inject funds to a company are as follows:

- Fresh capital injections, which may be paid-in in cash or in kind.
- In case of a capital injection in cash, at least 25% of the funds must be paid in at the time the corporate resolution is adopted and the remaining 75% within any reasonable times so determined by the partners/shareholders.
- Capitalization of undistributed profits or other corporate funds
- Loans

C3. Return of proceeds

11 **What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.**

Proceeds from entities may be distributed as follows:

- Dividends declared by the Annual Shareholder’s Meeting, based on net profits arising from annual financial statements that have been duly approved.
- Return of additional paid-in capital, which is the return of funds received by the company that was registered as additional paid-in capital and not registered as capital stock.
- Voluntary Capital Reduction, as resolved by an Extraordinary Shareholders’ Meeting.
- Repayment of Loans.
- Company Liquidation so agreed by an Extraordinary Shareholders’ Meeting, provided all legal requirements and formalities are met.

C4. Shareholder rights

12 **Are specific voting requirements / percentages required for specific decisions?**

- Corporate resolutions are normally adopted by a majority of votes.
- Ordinary meetings are valid on first call when at least 50% of voting shares are represented; resolutions will be valid if taken by the majority of votes present at the meeting.
- Extraordinary meetings are valid on first call when at least 75% of voting shares are represented; resolutions will be valid if taken by at least 50% of all voting shares.
- On second call, both ordinary and extraordinary meetings are valid with any voting shares represented; resolutions will be valid if taken by the majority of votes present at the meeting.

13 **Are shareholders authorized to issue binding instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?**

Yes, but as a minimum, management must comply with all fiduciary duties under the law.

C5. Employment

14 **What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?**

Right / Protection	Details
National Minimum Wage	Minimum wages vary according to the labor task at hand. They are fixed every six (6) months, in January and July of each year, by a Committee of the Ministry of Labor in which the Government, the Private Sector and Unions are represented.

Holiday	The Code of Labor contemplates two (2) weeks of vacation for every fifty (50) weeks of continuous work. Longer vacation periods may be negotiated either under individual employment contracts or collective bargaining agreements.
Working Hours	<p>The legal working day is computed as follows:</p> <ul style="list-style-type: none"> • Day shift: eight (8) hours per day (forty-eight (48) hours per week). • Night shift: six (6) hours per night (thirty-six (36) hours per week). • Mixed shift: seven (7) hours per day (forty-two (42) hours per week).
Rest Periods	<p>Between the end of one working day and the beginning of the next, there shall be a break of not less than twelve (12) hours.</p> <p>Additionally, every worker shall have the right to enjoy at least one full rest day after six days or one week of continuous labor.</p>
Pension rights	At a general level, to be eligible for retirement, a person must meet the following two requirements: (i) a minimum of 300 monthly contribution payments to the Social Security System (<i>Caja Costarricense del Seguro Social</i> – “CCSS”), and (ii) 65 years of age. Changes will be implemented effective as of 12 January 2024.
Discrimination	<p>The Labor Code prohibits any type of discrimination against workers based on any issue, including sex, race, nationality, religion, politics, trade union or age. Analogous forms of discrimination may also be invoked.</p> <p>The employer may not conduct surveys, inquiries or inquire about the worker's political, religious, union, cultural or sexual preference opinions, unless objectively related to the employment at hand.</p> <p>The employer must treat all workers equally in all situations and at all times.</p> <p>Costa Rica is a member of several International Labor Organization treaties, such as the treaty for the elimination of violence, harassment and discrimination at the workplace.</p>
Maternity Leave / Pay	<p>Women are entitled to a paid leave of four (4) months due to maternity: one (1) prior to giving birth and three (3) after birth. The mother may take breaks totaling up to one (1) hour a day for nursing purposes for as long as the pediatrician so recommends.</p> <p>Pay remains the same during the maternity leave, and women benefiting from the leave are protected from unilateral termination of employment without cause.</p>
Paternity Leave	Men are entitled to a paid leave of two days per week during the first four weeks after birth.
Shared Parental Leave	Costa Rican law does not provide for shared parental leave.

<p>Statutory sick pay</p>	<p>Statutory sick pay derives from social security protection (CCSS), for regular illnesses, or occupational hazards insurance, for labor related illnesses or accidents. Leave extension will depend on the incapacity at hand according to schedules determined by the CCSS and the Occupational Hazards Insurance Act, depending on the issue at hand.</p> <p>CCSS Sick Pay:</p> <ul style="list-style-type: none"> • Employer pays 50% of salary for the first three (3) days of sick leave. CCSS is not bound to pay any amount to the employee. • CCSS pays 60% of salary starting on day four (4) of the incapacity. <p>Work hazards insurance:</p> <ul style="list-style-type: none"> • The insurer pays 60% from day one of the incapacity. <p>It is customary (but not mandatory) that employers pay for any remaining percentage of salaries of the sick employee not covered under the sick pay.</p>
<p>Statutory Notice Periods</p>	<p>The parties must give prior notice of their decision to terminate the employment relationship, depending on the length of employment:</p> <ul style="list-style-type: none"> • 3-6 months: one (1) week • 6-12 months: two (2) weeks • After 12 months: one (1) month <p>The party that omits to give notice shall pay a substitute indemnity equivalent to the corresponding length of notice.</p>
<p>Unfair dismissal</p>	<p>Yes. However, it is important to note that dismissal of employment may be with cause or without cause.</p> <ul style="list-style-type: none"> • Unfair dismissal is the unilateral termination of employment by the employer without cause. • Dismissal with cause is when termination is justified upon employment contract and/or Labor Code violations by the employee. This is the most serious disciplinary measure that an employer may impose on an employee.
<p>Statutory Redundancy Payment</p>	<p>Termination without cause by the employer requires the latter to pay the following indemnity to the terminated employee:</p> <ul style="list-style-type: none"> • Severance indemnity (see below) • Statutory notice period equivalent • Christmas Bonus (1/12th of total salaries paid from December 1 of the previous year up to the date of termination) • Total accrued vacation time <p>The severance indemnity is calculated as follows, depending on the length of employment:</p>

	Less than 3 months	No payment
	3-6 months	7 days of salary
	6-12 months	14 days of salary
	Over 1 year, but less than 2 years	19.5 days of salary
	Over 2 years, but less than 3 years	20 days of salary (*)
	Over 3 years, but less than 4 years	20.5 days of salary (*)
	Over 4 years, but less than 5 years	21 days of salary (*)
	Over 5 years, but less than 6 years	21.24 days of salary (*)
	Over 6 years, but less than 7 years	21.5 days of salary (*)
	Over 7 years	22 days of salary (*)
	Over 8 years	22 days of salary (*)
	(*) Amount to be multiplied by each year of employment	
Statement of particulars	N/A	

15

On what basis can an employee be dismissed in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?

Employment Termination with Cause:

An employment contract violation by the employee may give rise to disciplinary actions in accordance with article 81 of the Labor Code.

Serious violations may amount to dismissal of the employee with cause.

The employer must notify its decision to terminate employment and express in clear terms the reasons for dismissal.

No severance indemnity is due if employment is terminated with cause.

Payment of the Christmas Bonus and accrued vacation time must be completed upon termination.

There are no other associated costs to dismissal with cause.

The employee may contest termination in the labor courts of the country.

Employment termination without Cause:

Employees can be dismissed at any time as long as severance payment is covered. Nevertheless, dismissals can be challenged by employees and reversed by the labor courts if they are considered discriminatory.

Collective Dismissals:

Governed by any applicable collective bargaining agreements.

16 Does your jurisdiction have a system of employee representation / participation (e.g., work councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?

These arrangements are valid but are hardly present in the private sector. Unions are common at a government level and the public sector.

Union leaders are protected by law against involuntary termination of employment.

C6. Anti-corruption / bribery / money laundering / supply chain

17 Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?

These issues are governed by the following statutes:

- Law 8422 of October 6th, 2004 ("Ley contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública"), as amended.
- Law 9699 of June 11th, 2019 ("Ley de Responsabilidad de las personas jurídicas sobre cohechos domésticos, soborno transnacional y otros delitos"), as amended.
- Law No. 8204 of January 11th, 2002 ("Ley sobre estupefacientes, sustancias psicotrópicas, drogas de uso no autorizado, actividades conexas, legitimación de capitales y financiamiento al terrorismo"), as amended.
- The Criminal Code, Law 4573 of May 4th, 1970, as amended.

Public officers, as well as corporate entities and individuals can be held liable for failure to prevent bribery and corruption in general, drug trafficking and money laundering, and the financing of terrorism, among other crimes.

These regulations are essentially territorial, although some extraterritorial effects can be associated to their application, including collaboration with other countries in joint efforts to eradicate these practices.

18 What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?

Same rules as above.

Yes, there is an obligation to report economic crimes to the local authorities.

19 How is money laundering and terrorist financing regulated in your jurisdiction?

Several rules govern anti money laundering and terrorism financing efforts in Costa Rica.

Law No. 8204 of January 11th, 2002 ("Ley sobre estupefacientes, sustancias psicotrópicas, drogas de uso no autorizado, actividades conexas, legitimación de capitales y financiamiento al terrorismo"), as amended, is the main regulation in this regard, aiming to detect, prevent and report suspicious operations that could be related to these criminal activities. These regulations cover a vast amount of financial transactions in the market, making it mandatory to report any transactions over US\$10,000.

20 **Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderearbeid, the French loi de vigilance)?**

Other than constitutional provisions and adopted international conventions, there are no specific regulations in this regard. Human labor of all types is protected under local and international rules applicable in Costa Rica.

Companies can also adopt and implement internal regulations concerning corporate social responsibility.

C7. Compliance

21 **Please describe the requirements to prepare, audit, approve and disclose annual accounts / annual financial statements in your jurisdiction.**

Annual financial statements must inform of the following elements for each fiscal year:

- Balance sheet specifying current and non-current assets and liabilities
- Rights and obligations must be shown, indicating whether they are documented, collateralised, etc.
- Assets and liabilities in foreign currency must be shown separately in the corresponding items
- Profit and loss statement showing separately the profit or loss from ordinary and out of the ordinary operations of the entity
- Variations in cash
- Changes in equity and capital, including the causes of these changes during the year in each of the items that make up the net worth.
- Notes to the financial statements showing bases used to create the financial statements, bases of measurement and recognition of the economic facts, and accounting policies.

Copies of the financial statements and related documentation must be kept in file, available to partners/shareholders, for their review. Copies of the management report and the statutory controller's report must also be shared with partners/shareholders.

Financial statements and management's report must be approved at the annual ordinary shareholders'/partners' meeting.

With respect to approval and filing of annual financial statements, please see our comments in the following sections 22 and 23.

22 **Please detail any corporate / company secretarial annual compliance requirements?**

Annual compliance requirements basically consist of:

- Review and approval of annual financial statements and distribution of dividends.
- Appointment of management and officers, where applicable.
- Payment of annual legal entity corporate tax.
- Filing of annual declaration on shareholders and ultimate beneficial owners, with the Registry of Transparency and Final Beneficiaries, of the Costa Rican Central Bank.

23 **Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?**

Yes, at least one ordinary shareholders/partners meeting within 3 months after the end of the fiscal year (December 31st). The following matters must be considered:

- Review and eventual approval of annual financial statements and distribution of dividends, where applicable.
 - Appointment of management and officers, where applicable.
 - Any other established in the articles of incorporation.
-

24 **Are there any reporting / notification / disclosure requirements on beneficial ownership / ultimate beneficial owners (“UBO”) of entities? If yes, please briefly describe these requirements.**

Yes, as indicated above there is a UBO Registry that has to be filed yearly. In addition to this yearly filing, entities have to file extraordinary declarations when changes to their ownership structure happen.

C8. Tax

25 **What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?**

Income Tax: 30% for medium size and larger entities.

Capital gains tax rate: Generally included in taxable income and subject to corporate income tax at progressive rates; or 2.25% or 15% of the specific transaction, depending on the situation.

Value-Added Tax: On sales of goods and services (13%)

26 **Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g. tax holidays, incentive regimes, employee schemes, or other?)**

Yes, there are significant tax exemptions when operating as a free trade zone, an incentive mainly directed to export-oriented manufacture business, as well as marketing, back-office and other export and service related entities.

27 **Are there any impediments / tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?**

Yes.

A withholding tax applies to royalties and dividends payments, and other remittances sent abroad.

There are no currency exchange controls, nor any mandatory foreign capital registration rules.

28 **Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?**

Transfer taxes on real estate is 1.5%, and 2.5% for vehicles, ships, aircrafts and register movable assets.

Stamp duties amount generally to 0.5% on the amount of certain transactions.

C9. M&A

29 **Are there any public takeover rules?**

Yes, but the market is rather small.

There are public offering rules under Law 7201 of 10 October 1990 (*Ley Reguladora del Mercado de Valores*), as amended, requiring registration of securities and agents with the local regulator (*SUGEVAL*) and subject to supervision thereby.

30 **Is there a merger control regime and is it mandatory / how does it broadly work?**

Law 7472 of 20 December 1994 (*Ley de Promoción de la Competencia y Defensa Efectiva del Consumidor*), governs antitrust issues in Costa Rica. Companies participating in mergers and acquisitions in the local market must file for approval of their intended transaction whenever the volume of business crosses certain thresholds established in applicable regulations. Information must be filed with the application and the merger/acquisition will not be deemed valid and effective until approved.

31 **Is there an obligation to negotiate in good faith?**

Yes, the principle of good faith informs all rules about doing business in Costa Rica. The Civil Code, the Code of Commerce, and public procurement regulations all provide for the obligation of negotiating in good faith.

32 **What protections do employees benefit from when their employer is being acquired, for example, are there employee and / or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is undertaken?**

Employees of companies being acquired by a third party are protected under the law and their rights safeguarded even if change of ownership occurs. The new owner is bound to honor all labor rights of companies/businesses so acquired and is jointly liable with the seller for that matter. There is no obligation to inform employees of a sale of interests, assets or goodwill, but employment liabilities are in no way affected by the transaction.

C10. Foreign direct investment

33

Please detail any foreign direct investment restrictions, controls or requirements? For example, please detail any limitations, notifications and / or approvals required for corporate acquisitions.

There are no restrictions in general preventing foreign direct investment in Costa Rica, except regarding mining and hydrocarbon explorations/exploitation (activities not allowed in general), power generation (subject to state monopoly) and ownership of real estate at coastline (largely ignored).

34

Does your jurisdiction have any exchange control requirements?

No exchange controls exist.

D. Entity closure

35

What are the most common ways to wind up / liquidate / dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.

Costa Rican companies may be dissolve and liquidated following certain specific procedures under the Code of Commerce:

- General extraordinary meeting of partner/shareholders adopting corporate resolutions to: (i) dissolve and later liquidate; and (ii) appoint liquidator.
- Preparation of special financial statements for liquidation purposes.
- Notice of liquidation and call for payment of all claims to creditors published in the Official Gazette and a local newspaper.
- Collection of credits, payment of liabilities and sale of assets by liquidator.
- General extraordinary meeting of partners/shareholder adopting corporate resolutions to: (i) approve liquidation performed and distribute proceeds and/or remaining assets and dissolve; and (ii) ratify dissolution and liquidation.
- Filing of final tax returns with the Tax authorities.
- Distribution of proceeds and/or remaining assets among partners/shareholders.
- Preparation of final financial statements – “zero” balance sheet (no assets/liabilities).
- De-registration of the company with the Costa Rican Public Registry and other relevant authorities, such as the Tax Administration.

Other reasons to dissolve a company may be

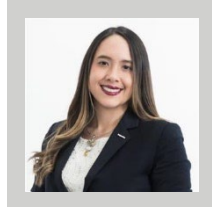
- Expiration of the term for which the company was established.
- Failure to pay the yearly corporate tax for a period of three years.
- Fulfillment of the condition to which its existence was subordinated or achieving purpose for which it was formed.

Contacts



Ricardo Güell
Partner

riguell@deloitte.com
+506 22465109, Ext=5109



Estefanía Ramírez
Manager

esteramirez@deloitte.com
+506 22465217, Ext=5217



Augusto Solís
Manager

ausolis@deloitte.com
+506 22465261, Ext=5261

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