



Doing business in Ecuador

A comparative guide

July 2023

A guide to doing business in Ecuador

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?**

Ecuador is a civil law jurisdiction. The approved laws are first published in the official gazette, then codified in commercially published codes, or published individually or in compilations of topics by some publishers and web pages.

B. Entity establishment

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

The legal forms in Ecuador encompass two types: the individual and the corporate/cooperative branch. Within the individual branch we have the Single-Member Limited Liability Company, and on the other hand, within the corporate/collective type, according to its type of liability we have:

- Collective Name Company,
- Limited Partnership Company
- Joint Stock Company,
- Mixed Economy Company
- Public Limited Company
- Limited Liability Company and,
- Simplified Joint Stock Company.

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

It depends. In most cases a foreign entity can execute acts in Ecuador with full validity. However, if the company is going enter into contracts with the government or is going to develop any activity that has some relation with sectors in which the state has reserved its exclusive participation, the foreign company must open a branch in Ecuador or, depending on the case, establish an Ecuadorian entity that is a subsidiary.

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

Yes. Depending on the type of entity to be established in Ecuador, the capital requirements will be different and will vary from one another. For example:

- For the Single-Member Limited Liability Company according to the Law, the initial capital stock shall be the total amount of money that the manager-owner has allocated to the activity itself,

however, this capital may not be less than the product of the multiplication of the minimum unified basic remuneration by ten (i.e.: USD 450 x 10).

- For the Collective Name Company and the Limited Partnership Company, the Law does not establish a minimum initial capital for its incorporation, so the establishment of the same is left to the freedom of the founding partners.
- For the Joint Stock Company, the capital shall be divided into registered shares of equal par value. At least one tenth of the capital stock must be contributed by the jointly and severally liable partners.
- For the Mixed Economy Company, the capital of this company is USD 800, it can also be in movable or immovable property related to the corporate purpose of the company. In this kind of companies, the State, for reasons of public utility, may at any time expropriate the amount of private capital.
- For the Public Liability Company, the Law establishes a minimum capital of USD 800. The capital must be fully subscribed and paid in at least 25% of the total capital. Contributions may consist of cash, movable or immovable and intangible assets, or both cash and in specie at the same time.
- For the Limited Liability Company, a minimum capital of USD 400 is established by law. The capital must be fully subscribed and paid in at least 50% of the nominal value of each participation and the balance must be paid in a term not exceeding twelve months. Contributions may be in cash or in specie (goods), movable or immovable and intangible, or both cash and specie at the same time. In any case, the species must correspond to the activity or activities that make up the object of the company.
- For Simplified Joint Stock Company, the law does not require a minimal capital requirement, since they can be constituted with 1 USD

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

Having already established in question number 2 the types of legal forms that are available in Ecuador, we will continue to describe them briefly, being the Public Limited Company, the Limited Liability Company and since their approval, the Simplified Joint Stock Company, the most common entities for investors to utilize in Ecuador.

Within the **individual branch**, there is the Single-Member Limited Liability Company: this company was introduced with the publication in the Official Gazette 196 of January 26, 2006, of this Law, which allows a single natural person to constitute a company. This type of company, due to its nature, has notorious differences with other corporate types of companies included in the Companies Law of Ecuador. To begin with, this company is formed with the figure of a limited liability company, but not with the particular characteristics of the ordinary limited liability companies contemplated in the Companies Law, since the single-member company starts its activities until the end of its legal term with only one person, solely and exclusively. This person is known as the owner-manager and not as a partner. The single-member limited liability company does not admit a transformation into another type of company, except in the case that the heirs of the owner-manager are more than 1, in which case they must transform the single-member company into another type of company. This company can be formed by a person who has the legal capacity to perform commercial acts, this is contemplated in Article 6 of the Commercial Code and Article 1461 of the Civil Code. In no way can this type of company be constituted with a legal entity or with natural persons who cannot exercise commerce according to the Law. It is provided that both the owner-manager and the sole proprietorship of limited liability are different persons, therefore their assets are separate. The law provides that the owner-manager will not be liable for the obligations of the company, nor vice versa, except in cases listed in the same law,

such as fraudulent bankruptcy, in which he may be liable with his personal assets for the obligations of the company. The object of this company is the organized economic activity to which it is going to dedicate itself, and this object will include only one business activity. This type of company is expressly forbidden to carry out the activities contemplated in the General Law of Institutions of the Financial System, the Securities Law and the General Insurance Law, as well as other activities for which another type of company is required.

Within the **corporate/collective branch**, the legal forms in Ecuador are described as follows:

Collective Name Company: Within this type of company, the principle of knowledge and trust among the partners governs. This type of company does not admit public subscription of capital and the contract of the same is executed by means of a public deed that must be approved by a Civil Judge. The name of the company must be its corporate name, which is the enunciative formula of the names of all the partners, or of some of them, with the addition of the words "and company" (and Co.).

- The law does not establish a minimum founding capital for this company, but it does establish that it must be formed between 2 or more persons, and that in order to be incorporated, no less than 50% of the subscribed capital must be paid in. The capital contributions are not represented by negotiable instruments. Likewise, this type of company is not subject to the Superintendence of Companies, and for the corporate obligations, the partners are jointly and severally and unlimitedly liable.

Limited Partnership Company (*Compañía en comandita simple*): This company has two types of partners and is contracted between one or several partners jointly and unlimitedly liable, called general partners (*comanditado*), and one or more partner's supplying funds, called limited partners (*comanditario*), whose liability is limited to the amount of their contributions. The company exists under a corporate name consisting of the name of one or more of the limited partners, to which the words "Limited Partnership" are added. The management is in charge of the limited partners and, with respect to its incorporation, it will be constituted in the same manner as the Collective Name Company, which, like the latter, does not require a minimum founding capital, nor is it subject to the superintendence of companies.

Joint Stock Company (*Compañía dividida por acciones*): Like the Limited Partnership, this company is formed between two classes of partners: general partners (*comanditado*) and limited partners (*comanditario*). The company will exist under a corporate name which will be formed by the names of one or more jointly and severally liable partners called general partners (*comanditado*), followed by the words "limited partnership" (*compañía en comandita*). The capital of this company shall be divided into registered shares of equal par value. At least one tenth of the capital stock must be contributed by the jointly and severally liable partners. The management of the company corresponds to the jointly and severally liable partners. With respect to what is not contemplated in the above characteristics, this company is governed by the rules of the joint stock company.

- According to the mandate issued by the Constituent Assembly together with its secretary, dated April 30, 2008, the outsourcing and labor intermediation is eliminated and prohibited, as well as the hiring of hourly labor, and that only complementary activities such as surveillance, security, food, messaging and cleaning may be hired, consequently the company that wishes to contract with companies engaged in activities such as surveillance, may not have any kind of connection with the company to which it will provide its services. Companies that have civil or professional services contracts will have to change their contract, except in the case that these services are specialized technical services outside the usual activities of the user such as: accounting, advertising, consulting, auditing, legal, among others.

Mixed Economy Company: In order to establish these companies, it is imperative that they contract legal entities under public law or semi-public legal entities with legal entities or individuals

under private law. They are companies dedicated to the development and promotion of agriculture and industry.

- The procedure for the incorporation of this type of company is the same as that used for the incorporation of a joint stock corporation. Likewise, if the State or public sector entities or agencies that participate in the company so require, the bylaws will determine the special requirements and conditions that may be appropriate with respect to the transfer of shares and participation in the increase of the company's subscribed capital.

Public Limited Company (*Sociedad Anónima*): The main characteristic of this company is that it is a corporation whose capital is divided into negotiable shares, and its shareholders are liable only for the amount of their contributions. This type of company is managed by removable agents, partners or not. It is constituted with a minimum of two partners with no maximum.

- The company must be constituted with two or more shareholders, according to the provisions of Article 147 of the Companies Law. The corporation may not subsist with less than two shareholders, except for companies whose total or majority capital belongs to a public sector entity.
- In this kind of companies, it may consist of a corporate name, or an objective name. It must be approved by the General Secretary of the Head Office of the Superintendence of Companies, or by the General Secretary of the Intendance of Companies of Guayaquil, or by the official designated for this purpose in the intendancies of companies.
- The presentation to the Superintendent of Companies, will be made with three certified copies of the deed of incorporation of the company, attaching the corresponding request, the same that has to be elaborated by an attorney, requesting the approval of the constitutive contract.

Limited Liability Company (*Compañía de Responsabilidad Limitada*): The Limited Liability Company is the one that is contracted with a minimum of two members, and may have a maximum number of fifteen, and if during its legal existence it exceeds this number, it must be transformed into another type of company or it must be dissolved. It should be noted that this type of company cannot subsist with only one partner.

- In this type of company its partners are only liable for the corporate obligations up to the amount of their individual contributions, and they trade under their corporate name or company name always accompanied by a peculiar expression so that it cannot be confused with another company.
- The name, in this type of companies can consist of a corporate name, an objective or imaginary denomination. It must be approved by the General Secretary of the Head Office of the Superintendence of Companies, or by the General Secretary of the Intendance of Companies of Guayaquil, or by the official designated for this purpose in the Superintendence of Companies.
- The presentation to the Superintendent of Companies, will be made with three certified copies of the deed of incorporation of the company, attaching the corresponding request, the same that has to be elaborated by an attorney, requesting the approval of the constitutive contract.

Simplified Joint Stock Company (*Sociedad por Acciones Simplificadas – SAS*): With the new Organic Law of Entrepreneurship and Innovation of Ecuador, approved in 2020, this type of company or corporation was created to promote the formalization and development of entrepreneurship in the country. These companies are of a mercantile nature and can be incorporated in an agile manner since they do not require minutes, public deed or registration in the Commercial Registry. This means that the incorporators do not incur in expenses for their creation. The novelty of this type of mercantile companies is that they do not require an onerous capital stock since they can be constituted with 1 USD, although these companies have responsibilities before the state

control entities, this will be strictly limited up to the maximum amount of their contributions since, as established in the Companies Law, it is a legal entity different from its shareholders, except for judicial disposition. In addition to having a simple, fast and cost-free creation process, this type of company provides several benefits to its shareholders, since it allows them to generate diverse economic activities as varied as required. Moreover, this type of companies allow the execution of shareholders agreements. Therefore, since the approval of simplified joint stock companies, almost all newly incorporated companies are of this type.

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

Companies can be managed by a board of directors, jointly appointed representatives, jointly and several appointed representatives or also managed by their duly appointed legal representatives (usually a General Manager or an Executive President). The bylaws of the company shall establish the specific faculties the representatives have to oblige the company.

Moreover, there are several matters that are competence of the shareholders meeting.

Decisions are taken by a majority of the members (in case of a board of directors or the shareholders meeting, unless otherwise established in the bylaws of the company).

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

No. In Ecuador, there are no general requirements or restrictions in relation to the appointment of representatives or administrators in the corporation, beyond the requirement of having civil capacity to enter into contracts and be Ecuadorian or have a work visa.

With respect to the requirement of a certain number of shareholders, the Limited Liability Company is the one that is contracted with a minimum of two members, and may have a maximum number of fifteen. The Public Liability Company it must be incorporated with two or more shareholders but may continue to exist with only one shareholder after its incorporation.

Also with the residence or local nationality of the founders of the corporation; these may be nationals or foreigners, with the requirement that if a foreign company is the founder of a corporation, Article 150 of the Companies Law requires that the articles of incorporation must include a certification attesting the legal existence of such company in its country of origin and a complete list of all its members, partners or shareholders, indicating their names, surnames and civil status, if they are natural persons, or the name or corporate name if they are legal persons and, in both cases, their nationalities and domiciles.

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, the foreign company can act through agents, distributors, and develop alliances with local strategic partners. Generally speaking, these ways of doing business do not require special formalities.

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.**

There are no mandatory rules, however in September 2020 the "rules for good corporate governance" were published, which will be mandatory for companies only if their bylaws determine it.

C2. Capital

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

Any authorized capital increase in Companies will be resolved by the general shareholders' meeting and, after the pertinent formalities have been complied with, will be recorded in the corresponding commercial registry.

The capital increase will be prepared in a public deed before a Notary Public and subsequently registered in the Commercial Registry. The values of the capital increase before a notary will depend on the amount of the increase and likewise in the Mercantile Registry, however the last one has a limit of USD 3,000.

Only in the case of simplified joint stock companies, the procedure for capital increases will be by private document without the need of a Notary Public and without incurring in expenses in the commercial registry. The documents go directly to the Superintendence of Companies who will register the increase in the "Companies Registry".

With respect to the capital increase, it is prohibited to increase the capital by means of reciprocal contributions in shares of the company's own issue, even if they are made through an intermediary. Now, a capital increase may be agreed as long as at least 50% of the initial capital or of the previous increase has been paid. Shareholders who are in arrears in the payment of the previous subscription may not exercise their preferential right until they have paid what they owe. Likewise, the company may agree to increase the capital stock by issuing new shares or by increasing the value of those already issued.

The payment of the contributions to be made by subscription of the new shares may be made:

1. In cash or in species.
2. By offsetting credits.
3. By capitalization of reserves or profits; and,
4. By the reserve resulting from the revaluation of assets.

In order to proceed with the capital increase, at least 25% of the value thereof must be paid in, and the general meeting that approves the capital increase will establish the bases for the operations listed above.

The capital increase by increasing the value of the shares requires the unanimous consent of the shareholders if new contributions in cash or in kind are to be made. Unanimous consent of the shareholders' meeting is required if the increase is made by capitalization of profits. However, if the new contributions are made by capitalization of reserves or by offsetting credits, they will be agreed by a majority of votes.

With respect to loans, the company may not make loans or advances on the shares it has issued, except in the case provided for in Article 297 of the Companies Law, which establishes the requirements and limits of the legal reserve of the company and the distribution of dividends thereof.

C3. Return of proceeds

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

With respect to the Public Limited Company, article 297 of the Companies Law establishes that at least 50% of the annual liquid profits must be allocated as dividends in favor of the shareholders, unless otherwise unanimously resolved by the general shareholders' meeting. Now, the issuing corporations whose shares are registered in the Public Registry of the Stock Market must distribute as dividends or in favor of the shareholders at least 30% of the net and realized profits obtained in the respective fiscal year. Now, all the remainder of the net and realized profits obtained in the respective fiscal year by the issuers whose shares are registered in the Public Registry of the Securities Market, which have not been distributed or destined to the constitution of legal and optional reserves, must be capitalized.

C4. Shareholder rights

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

In addition to the provisions of the bylaws of each of the companies, a unanimous vote at the General Shareholders' Meeting is required for the following acts:

Capital increase: A capital increase due to an increase in the value of the shares requires the unanimous consent of the shareholder meeting. Also, unanimous consent of the meeting is required if the increase is made by capitalization of profits.

However, if the new contributions are made by capitalization of reserves or by offsetting credits, they shall be agreed upon by a majority of votes.

Distribution of dividends: The decision not to distribute dividends must be made by a unanimous decision of the Shareholders' Meeting.

Universal Shareholders' Meeting: In order to hold a Universal Shareholders' Meeting (without prior notice), 100% of the shareholders must be present and vote.

To acquire its own shares: In order to acquire its own treasury shares, the approval of 100% of the General Shareholders' Meeting is required.

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

The general shareholders' meeting is the highest governing body of the company. It does not matter if it is a limited liability company or a joint stock company, which are the most frequent. The scope of the general meeting's power to manage the company depends on the company's bylaws. The general meeting may establish restrictions to the administration; however, these limitations are not enforceable against third parties unless they are incorporated in the company's bylaws. For companies that have a board of directors (except for the financial sector, there is no obligation for private companies to have a board of directors), the powers of the general meeting versus the powers of the board of directors must be defined in the articles of incorporation.

C5. Employment

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

Right / Protection	Details
<p>National Minimum Wage</p>	<p>In Ecuador, the basic salary for the general worker is FOUR HUNDRED AND FIFTY DOLLARS OF THE UNITED STATES OF AMERICA (USD 450.00).</p> <p>In accordance with our Constitution, it is up to the Ecuadorian state, through its ministers of state, to exercise the leadership of public policies in the area under their faculties; for this reason, through a Ministerial Agreement issued in November 2022, the Ministry of Labor set the basic salary of the worker in general for the year 2023 at 450 Dollars. This new salary brings with it an increase of 5.882% over the salary of the previous year. The Ecuadorian government has announced that until 2025 the minimum wage will be increased to 500 Dollars.</p>
<p>Holiday</p>	<p>By 2023, Ecuador will have 12 days off from mandatory rest due to national holidays.</p> <p>The Ministry of Tourism, in the exercise of its public authority, issues annually the calendar of days off for rest, which are mandatory for employers and workers; when failing that, the work activities carried out on these days, must be remunerated with 100% of the surcharge for the hour / day worked.</p>
<p>Working Hours</p>	<p>In Ecuador, the working day lasts 8 hours a day and 40 hours a week, with two days off between each work week. As a general rule, rest days are weekends. But this can change depending on the industry and the need of the business.</p>

<p>Rest Periods</p>	<p>Rest days are Saturdays and Sundays, in which workers must be given a mandatory rest. Work activities performed on these days are remunerated with 100% of the surcharge for the hour/day worked.</p> <p>The exception to the payment of this surcharge for work on weekends is for those companies that have a special (rotating) schedule previously authorized by the Ministry of Labor; but in any case, there must always be two days of compulsory rest which may be distributed among the 7 days of the week.</p>
<p>Pension rights</p>	<p>In Ecuador, pensioners are those affiliated to the General Insurance of the IESS, who when fulfilling the requirements for the retirement process for disability, disability or old age, qualify for the right for the granting of the lifetime economic benefit; as well as spouses, children under 18 years of age and/or qualified children of legal age with incapacity to work; of the deceased insured, and who were qualified as entitled to receive the Montepío pension.</p> <p>Pensioners are protected by national legislation and have a number of rights, including the right to pension payments, health care, certain family benefits and social services.</p>
<p>Discrimination</p>	<p>In labour matters, Ecuador has amended its national legislation to ensure equal access for men and women. But this is reflected not only in the field of recruitment; rather, legislation has been made to include men and women equally in company management directives.</p> <p>This promotes the elimination of discrimination in the development of work activities.</p> <p>Moreover, discrimination of any type (sex, religious, ethnic, etc.) is expressly prohibited in Ecuadorian legislation.</p>
<p>Maternity Leave / Pay</p>	<p>By provision of the labour law in force, working mothers enjoy a maternity leave of 12 weeks, during this time it is not required to attend work activities, but the remuneration continues to be paid. Currently, this time determined as maternity leave can be shared with the father up to 75%; the employee's decision must be communicated to the employer in advance of the time of leave.</p> <p>The mother, after exercising her maternity leave, enjoys a breastfeeding leave of 2 hours a day deducted from the working day, for 12 months. During this time, the working day required for the mother is 6 hours a day.</p>
<p>Paternity Leave</p>	<p>Current labour legislation establishes that paternity leave lasts for ten days, with normal remuneration, in cases of birth by normal childbirth. In case of cesarean birth or twins the period is extended for five more days.</p> <p>In special cases, the time when the father can stay away from work, without losing wages, may increase; when the child is born premature or requires special conditions of care, for example, eight more days are added to the leave. Additionally, in cases of</p>

	degenerative, terminal or irreversible disease, paid leave can reach up to 25 days.
Shared Parental Leave	In Ecuador, it is allowed to share the period established as maternity leave for the mother of 12 weeks, with the father, up to 75% of the established time.
Statutory sick pay	In case of illness of the worker, the first three days are covered by the employer. From the fourth day of disability caused by illness and up to 182 days, the subsidy is a benefit paid by the IESS (Ecuadorian Social Security Institute) to active workers, who for medical reasons are unable to work.
Statutory Notice Periods	<p>In Ecuador, legal notification deadlines are established by law and compliance is mandatory; since failure to comply with these deadlines can lead to the imposition of sanctions. For instance, to quit a job the notice period is of 15 days.</p> <p>In the event of dismissal, the employer must submit a process to the labour authority to verify compliance with one of the grounds for termination of the employment contract provided for in article 172 of the Labour Code. The total period of conduct of the process will not be more than 30 days.</p>
Unfair dismissal	<p>According to our Constitution and the law, it is known as unfair dismissal, the termination of employment relations unilaterally by the company (without following the corresponding dismissal procedure); in the case of pregnant and breastfeeding women, leaders of trade union organizations and disabled persons. This provision also extends to cases of dismissal due to discrimination against the worker, due to his or her condition as an older adult, sexual orientation, among others, which is why the worker will be entitled to additional compensation for unfair dismissal, without the right to return to work.</p> <p>The declaration of unfair dismissal comes from a judicial decision and when these cases arise, the law establishes the possibility of being reinstated in their job and the payment of outstanding remuneration will be ordered with a ten percent (10%) surcharge. But in the event that the dismissed worker does not accept reinstatement, the company must pay additional compensation to that established for untimely dismissal. It is important to know that the worker has a maximum of 30 days to file a labor lawsuit, if he or she does it outside that period, the judge will not even admit his claim.</p> <p>The compensation for unfair dismissal of a pregnant woman, the breastfeeding women and members of trade union organizations shall be equivalent to the value of one year's remuneration received, in addition to the general remuneration corresponding to untimely dismissal. The same compensation shall apply to workers separated from their work activities for reasons of discrimination.</p> <p>In the event of unfair dismissal of a person with a disability or whoever is responsible for the maintenance of the person with a</p>

	<p>disability, he must be compensated with a value equivalent to eighteen (18) months of the best remuneration, in addition to the corresponding legal compensation.</p>
<p>Statutory Redundancy Payment</p>	<p>When the labour authority has declared that the dismissal of a worker is appropriate for having committed a ground for termination of the employment contract established in article 172 of the Labour Code, the corresponding compensation takes into account the payment of all social benefits that were pending payment to the worker, without payment of bonuses or additional compensations. For more details, please see section 15.</p>
<p>Statement of particulars</p>	<p>In Ecuador, the statement of particulars must be provided to the employee at the time of hiring and must be included in the text of the employment contract. This contract must be registered with the labor authority within 30 days from the start of work activities.</p> <p>To regulate the particularities of the relationship with the worker, Labour Code allows the employer, issue the Internal Work Rules. Document which has to be approved by the Ministry of Labour and explains the social benefits, as well as the obligations, duties and rights of both parties. This document has to be delivered at the time of hiring for review of new employees.</p> <p>Moreover, by law, the employer is obliged to give a talk to the new employee in which all the outstanding doubts of the reading of the internal Rules can be cleared.</p> <p>Additionally, in Ecuador, all companies have the obligation to notify their workers with the payment´s roll, a document in which the discounts and the breakdown of all the income paid to the worker under salary, can be visualized. Failure to comply with these rules may be reported to the Ministry of Labor by a complaint, which will be known for the labor inspector who will verify compliance with the employment contract and its benefits; and apply the corresponding sanctions in case of non-compliance.</p>

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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?

In Ecuador, dismissal proceeds when the worker incurs one of the grounds established in article 172 of the Labor Code. When the case is presented, the employer must submit a request for approval to the labor inspector and after an administrative process with the respective evidence, a resolution is issued in favor of the company, which declares the employment relationship terminated and exempts the company from the payment of severance pay. In this case, the costs to the company include only unpaid wages and other unpaid statutory benefits to the worker.

In the event of an untimely dismissal by unilateral decision of the company, compensation must be made to the worker in the following way: If a worker has been working for the company for up to three years, three salaries correspond to him as compensation for dismissal, of the last complete salary he or she received; this changes from the fourth year or fraction worked, when the company

must pay the amount corresponding to the last salary multiplied by the number of years or fraction worked.

In the case of collective dismissals for economic reasons or events that make it impossible to carry out work activities and as an effect make it impossible to comply with the employment contract; the possibility of negotiating with the worker remains, accompanied by the mediators of the Ministry of Labour, to define the amount to be paid for settlement. Mediation carried out with the purpose of reaching an equitable agreement for both parties, without implying a waiver of rights.

16

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

In Ecuador, freedom of association is a right recognized in our constitution; this is supplemented by the provisions of the Labour Code, which allows workers and employers, without the need for distinction or prior authorization, the right to establish, join or withdraw from professional associations or trade unions of their own choosing, in compliance with the law and the statutes of the respective associations.

The parties have the right to form associations by application addressed to the Ministry of Labour; State authority responsible for reviewing compliance with the corresponding requirements and issuing authorizations to these associations. Once the documentation has been received by the authority, within a maximum period of thirty days, it shall review the statutes and accompanying documents and, if appropriate, order the registration of the name and characteristics of the trade union or professional association in the corresponding book of the Regional Directorate of Labour. In the event of unjustified delay in the procedure, the legal personality of the trade union or professional association shall be recognized in the act.

During the establishment of the organization, the employer may not unjustifiably evict or dismiss any of the workers who have notified the labour inspector that they have met in general assembly to form a trade union or works council, until the first directive is integrated. This prohibition covers all workers who have or have not attended the constituent assembly.

It is worth noting that the dismissal or eviction of a worker belonging to the organization will not interrupt the process of registration or approval of the labor organization. However, the employer who contravenes the express prohibition of the impossibility of eviction or dismissal, will compensate the worker with a sum equivalent to the salary or salary of one year.

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

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

Yes. There are several regulations pertaining to anti-bribery. These regulations do not have extraterritorial reach.

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?**

The Integral Penal Code (*COIP*) in its fifth chapter titled Crimes Against Citizens Responsibility, section eight Economic Crimes, contains a detailed list of these types of crimes.

Having said the above, each of these crimes is related to other laws of our legislation.

The laws related to economic crimes are the following:

- Organic Law of Consumer Defense,
- Organic Monetary and Financial Code, Book I
- Organic Law of Communication,
- Organic Law of Transparency and Access to Public Information, Book I
- Civil Code
- Organic Monetary and Financial Code, Book II Securities Market Law and Book III General Insurance Law.
- Companies Law
- Organic Code of Production, Commerce and Investments
- Law for the Prevention of Money Laundering and the Financing of Crimes and its regulations.

Regarding the second question, article 422.1 of the COIP provides for the citizen's duty to denounce. The article mentions money laundering and acts of corruption in the private sector.

Furthermore, the Law for the Prevention of Money Laundering and the Financing of Crimes, its regulations and all the resolutions of the Financial Analysis Unit (*Unidad de Análisis Financiero y Económico - UAFE*), determine the ways in which the parties obliged to carry out such control must notify it to the competent authority.

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

There are several regulations related to money laundering and terrorist financing. Amongst those regulations are the following:

- The Integral Penal Code.
 - The Law to Prevent Money Laundering and Financing of Crimes and its regulations.
 - Resolutions issued by the Superintendence of Companies to Control Money Laundering.
 - The Monetary and Financial Organic Code.
 - The Resolutions issued by the Financial Analysis Unit (*Unidad de Análisis Financiero y Económico - UAFE*)
-

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

In Ecuador there are not specific individual laws as those mentioned above. However, Ecuador has several labour provisions that protect workers from any type of exploitation. Also, the Integral Penal Code prohibits and sanctions slavery (with up to 26 years of imprisonment) and human trafficking – which includes, amongst others, labour exploitation and child labour - (with up to 26 years of imprisonment).

Additionally, the Law for the Prevention of Money Laundering and the Financing of Crimes, its regulations and all the resolutions of the UAFE has guidelines that only companies in the supervised sectors must comply with. It obliges companies to have procedures such as: know your client, know your suppliers, measures for reporting in case of suspicious activities among others.

On the other hand, there are the Ecuadorian Norms for Good Corporate Governance. These are not mandatory for companies unless they are stipulated in the Bylaws.

The Superintendence of Companies, Securities and Insurance (SCVS), will watch over and encourage the implementation of good corporate governance, transparency in management and the development of corporate social responsibility.

C7. Compliance

21

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

The company's managers are obliged to prepare, within a maximum period of three months from the end of the annual financial year, the balance sheet, the statement of profit and loss account and the proposal for the distribution of profits, and submit them to the consideration of the general meeting together with an explanatory report on the management and economic and financial situation of the company.

The balance sheet and the statement of profit and loss account and its annexes, the administrator's report and the statutory auditors' report, if applicable, shall be available to the shareholders, at the company's offices, for their knowledge and review at least fifteen days prior to the date of the general meeting at which they are to be discussed.

Once approved by the shareholders, the financial statements shall be filed with the Superintendence of Companies, which will publish them in its web page.

In relation to the audit of the financial statements, the following companies shall audit their financial statements:

- a) National mixed economy companies, corporations and simplified joint stock companies with participation of legal entities of public law or private law with social or public purpose, whose assets exceed one hundred thousand United States dollars (US\$ 100,000.00).
- b) Branches of foreign companies or enterprises organized as juridical persons that have been established in Ecuador, provided that the assets exceed one hundred thousand United States dollars (US\$ 100,000.00).
- c) National corporations, limited liability companies, limited joint-stock companies and simplified joint-stock companies, whose assets exceed five hundred thousand United States dollars (US\$ 500,000.00).
- d) Companies subject to the control and surveillance of the Superintendence of Companies, Securities and Insurance, required to file consolidated balance sheets.

Assets are considered to be the amount of the total assets in the financial statements presented by the respective company to the Superintendency of Companies, Securities and Insurance in the preceding fiscal year.

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

To prepare the minutes of the shareholders meetings of each year (in which the financial statements of the previous year are known).

To report to the Superintendence of Companies the list of foreign shareholders up to the individual (natural person) last beneficiary.

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. All companies must hold within the first three months after the end of the fiscal year an annual shareholder meeting to resolve on the following matters:

1. To approve the financial statements and management/audit reports.
 2. To decide on the distribution of the profits of the company.
 3. To determine the compensation of the statutory auditors, administrators and members of the administrative and supervisory bodies, when not determined in the bylaws or when such determination does not correspond to another body or officer.
 4. The approval of the management of the company.
-

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. All companies must disclose its entire shareholding structure until the last individual, unless the relevant shareholder is a public company (i.e. in stock market) in which case a certificate must be provided.

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?

Corporate Income Tax

- **Rate:**
 - 25%: General rate for companies
 - 28%: Special rate: More than 50% of shareholding (direct and indirect) domiciled in a tax haven with a beneficial owner resident in Ecuador. Or when no shareholding is reported.
 - 25% - 28% Proportional rate: Less than 50% of shareholding (direct and indirect) domiciled in a tax haven with a beneficial owner resident in Ecuador. No shareholding is reported.
- **Taxable income:** In Ecuador, Income Tax applies to the income obtained by national or foreign companies in a fiscal period between January 1 and December 31.

The taxable base of this tax corresponds to the total taxable income less refunds, discounts, costs and expenses and deductions.

- **Filing and Payment:** The filling of the annual income tax return is in the month of April of the following year to which the information corresponds, according to the ninth digit of the Tax ID (RUC).

Taxpayers qualified as "Special Taxpayers" will file this return until April 9 of the following year to which the information corresponds.

- **Tax Credit:** The amounts withheld for income tax by customers constitute a tax credit for the determination of income tax of the taxpayer. This tax credit statute of limitation is 3 years and may be offset with the income tax caused or subject to refund.

VAT

- **Standard Rate:** Rate 12%.
- **Reduced Rate:** Rate 0% / Not subject to VAT (In accordance with the provisions of current tax regulations: LRTI / RALRTI)
- **Taxable income:** The taxable base in transfers of goods and provision of local services corresponds to the sale price of the good or service. VAT also applies to transfers of intellectual property rights.

In imports of goods, it corresponds to the sum of the customs value, taxes, tariffs, fees, duties, surcharges and other expenses that appear in the import declaration (DAI).

- **Filing and payment:** The VAT is filed and paid monthly in the month following the corresponding information according to the ninth digit of the RUC. Special taxpayers filed until the 9th of the following month that the information corresponds.
- **Tax Credit:** By Purchases: Taxpayers only dedicated to the production and / or marketing of goods or services taxed at 12%, will be entitled to total VAT tax credit. Taxpayers engaged in the production and/or marketing of goods or services taxed at 12% and 0%, will be entitled to a proportional VAT tax credit.

For withholdings: VAT withholdings made by customers may be used as a tax credit or subject to refund. (5 Years Term)

Temporary Contribution on Equity of Companies

The temporary contribution on equity was established that applies to companies that carry out economic activities and have a net worth equal to or greater than US\$5 million as of December 31, 2020, will pay a temporary contribution on their equity in 2022 and 2023.

- **Rate:**

FROM US\$	UP TO US\$	TAX
0	4,999,999.00	0%
5,000,000.00	From now on	0.8%

The net worth information will be taken from the Income Tax returns submitted to the Tax Administration.

- **Other considerations:**
 - Filing and payment must be made until March 31 of the years 2022 and 2023.
 - The return is made through form 126.

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?)

Tax Benefits for Productive Investments

• **Income Tax**

New companies that are constituted as of November 29, 2022, new companies created by existing companies and new investments of existing companies that make productive investments in Ecuador will enjoy a reduction of 3 percentage points of the Income Tax rate up to 15 years, as long as the following requirements are met:

- Reduction applies on income from new investment
- Maintain cost center or apply through the proportionality formula.
- The change of ownership of productive assets between related parties does not imply new investment
- Reduction applies from the generation of income attributable to the new investment
- Meet criteria of transparency and economic substance

In case an investment contract is signed with the State, the tax benefit could be up to 5 percentage points of the Income Tax rate. The requirements mentioned above must be met.

• **Overseas Remittance Tax (ISD)**

Payments made abroad for the importation of capital goods and raw materials made by companies that sign investment contracts with the State as of November 29, 2022, up to the amounts and terms established in said investment contracts and / or addenda, are exempt from ISD, provided that such acquisitions are necessary for the development of the project.

Major additional deductions for the determination of Income Tax

- 100% additional depreciation deduction for eco-efficient Fixed Assets. Authorization from the Ministry of the Environment will be required.
- Deduction 150% additional for salaries and social benefits on which the IESS is contributed for payments to the disabled.
- 100% additional deduction of depreciation and amortization of machines, equipment and sustainable construction technologies. The technical parameters and conditions issued by the Ministry of the Environment must be met.
- 100% additional deduction for the expenses of private medical insurance and / or prepaid medicine contracted in favor of all workers, and that the contracting is with companies domiciled in the country.
- Deduction of up to 140% additional on the salaries and social benefits that are contributed to Social Security, for the creation of a new job for the hiring of women. The deduction will be exclusive of others that are linked to salaries and social benefits, on which by their nature it is contributed to the IESS.

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.)?

Overseas Remittance Tax (ISD)

- **Taxable income:** The ISD taxes the sending or transfers of foreign currency that are made abroad, whether in cash or through the writing of checks, withdrawals or payments made

abroad with or without the intervention of the financial system. (Clearing of international accounts is excluded).

- **Rate:**
 - As of February 1, 2023: 3.75%
 - As of July 1, 2023: 3.50%
 - As of December 31, 2023: 2%
- **Presumption of ISD:**
 - Payments made from abroad.
 - Accounts receivable for exports > 6 months
 - Accounts payable for imports goods > 12 months
- **Main ISD Exemptions:**
 - Loans with specialized financial or non-financial institutions with a term longer than 180 days and that does not exceed the reference rates.
 - Transfers to financial institutions for compliance with conditions to grant loans.
 - Dividends to companies or individuals not resident in Ecuador.
 - Clearing of international accounts.
- **Tax Credit:**
 - The ISD paid on the importation of raw materials, inputs and capital goods, incorporated into production processes and included in the list of accepted tariff headings, could be considered as a tax credit for the payment of Income Tax.
 - The statute of limitation is for 5 years. It can be compensated or request a refund.

28

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

Capital Gains Tax

- **Rate:** CGT with a 10% rate levied on the profit/gain obtained on the sale of shares.
- **Generator Fact:** The profits received by companies domiciled or not in Ecuador from the direct or indirect alienation of shares, participations, other rights representing capital or other rights that allow exploration, exploitation, concession or similar; of companies domiciled or permanent establishments in Ecuador.

No direct or indirect sale shall be understood to have occurred and, therefore, the generating event of the CGT is not configured when the transfer of shares, participations or other rights representing capital, occurs due to the effects of corporate restructuring, merger or spin-off processes, provided that the beneficial owners of the shares, participations or rights representing capital, are the same in the same proportion before and after these processes.

- **Filing and payment:** They must file and pay through Form 119, the CGT on capital gains earned by residents and nonresidents (substitute).

For the purpose of paying the CGT, the company domiciled or permanent establishment in Ecuador whose shares were sold directly or indirectly, will be substitute for the taxpayer (non-resident) and as such will be responsible for the payment of the tax and the fulfillment of its formal duties.

- **Dates of declaration:**
 - Residents in Ecuador: Through the 9th digit of the RUC
 - Non-residents of Ecuador (substitute): Until the 26th day of the month following that in which taxable transactions are carried out.

- **Taxable income:** The profit on the disposal of shares or other rights representing capital shall be calculated as follows: The taxable income will correspond to the real value of the disposal. The deductible cost shall be the greater between, (a) par value, (b) the acquisition value, and (c) the proportionate equity value of the shares or other capital rights, as applicable, in accordance with the applicable financial technique for its valuation. Expenses directly related to the sale will also be deductible.

C9. M&A

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

No

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

The Superintendence of Market Power Control (“SCPM”) is the entity in charge of merger control. If a merger exceeds one of two thresholds (and if there is a change of control), the operation must be filed for approval before the SCPM. The thresholds are: (i) 200.000 minimum wages¹ (US\$90M for 2023) in sales between the involved economic operators (including the business group), and (ii) 30% or more participation in the relevant market of the operation. The process takes between 2 and 6 months.

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

Yes, the Ecuadorian Civil Code presumes good faith in the execution of contracts and requires good faith in the execution and compliance thereof.

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?**

In case of share deals there are no obligation of information with the employees. However, all employees will keep their employment relationship and all their rights and benefit remain the same.

In case of an asset deal, if employees are going to be part of the transaction, they must be notified of the change of their employer. However, the new employer may opt not to hire some of the employees, in which case a severance as unfair dismissal shall be paid.

¹ US\$450 in 2023

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.**

In general, there are no foreign direct investment restrictions.

34 **Does your jurisdiction have any exchange control requirements?**

No.

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.**

The most common and efficient way to dissolve a company in Ecuador is through the "3 in 1 liquidation" procedure. This is a procedure through which the legal representative of the company, subject to the control and surveillance of the Superintendence of Companies, Securities and Insurance, requests the abbreviated process of dissolution, liquidation and cancellation of the company. This procedure, which is free of charge, begins with the presentation, by the legal representative of the company, of the liquidation request, the deed of the company to be liquidated, and other pertinent documentation. This process continues with the review of the application and other documentation submitted, followed by the preparation and approval of the control report and the resolution of the application. Then, this resolution is notified to the Internal Revenue Service (SRI, in Spanish) and other control entities, an extract of the deed is published, and notice is given to the creditors. Then, the resolution is registered in the Mercantile Registry and when it is already registered, the user who requested the liquidation of the company is notified.

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Legal

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